

NATIONAL HISTORIC PRESERVATION ACT AMENDMENTS OF 1980

OCTOBER 10, 1980.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

MR. UDALL, from the Committee on Interior and Insular Affairs,
submitted the following

REPORT together with ADDITIONAL VIEWS

[To accompany H.R. 5496]

[Including cost estimate of the Congressional Budget Office]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 5496) to amend the National Historic Preservation Act of 1966, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 1, line 3, strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "National Historic Preservation Act Amendments of 1980".

TITLE I—FINDINGS AND POLICY OF NATIONAL HISTORIC PRESERVATION ACT

SEC. 101. (a) The first section of the Act of October 15, 1966 (16 U.S.C. 470-470t), hereinafter in this Act referred to as the "National Historic Preservation Act", is amended to read as follows:

"Sec. 1. (a) This Act may be cited as the 'National Historic Preservation Act'.

"(b) The Congress finds and declares that—

"(1) the spirit and direction of the Nation are founded upon and reflected in its historic heritage;

"(2) the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people;

"(3) historic properties significant to the Nation's heritage are being lost or substantially altered, often inadvertently, with increasing frequency;

"(4) the preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, economic, and energy benefits will be maintained and enriched for future generations of Americans;

"(5) in the face of ever-increasing extensions of urban centers, highways, and residential, commercial, and industrial developments, the present governmental and nongovernmental historic preservation programs and activities are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation;

"(6) the increased knowledge of our historic resources, the establishment of better means of identifying and administering them, and the encouragement of their preservation will improve the planning and execution of Federal and federally assisted projects and will assist economic growth and development; and

"(7) although the major burdens of historic preservation have been borne and major efforts initiated by private agencies and individuals, and both should continue to play a vital role, it is nevertheless necessary and appropriate for the Federal Government to accelerate its historic preservation programs and activities, to give maximum encouragement to agencies and individuals undertaking preservation by private means, and to assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.

"Sec. 2. It shall be the policy of the Federal Government, in cooperation with other nations and in partnership with the States, local governments, Indian tribes, and private organizations and individuals to—

"(1) use measures, including financial and technical assistance, to foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations;

"(2) provide leadership in the preservation of the prehistoric and historic resources of the United States and of the international community of nations;

"(3) administer federally owned, administered, or controlled prehistoric and historic resources in a spirit of stewardship for the inspiration and benefit of present and future generations;

"(4) contribute to the preservation of nonfederally owned prehistoric resources and give maximum encouragement to organizations and individuals undertaking preservation by private means;

"(5) encourage the public and private preservation and utilization of all usable elements of the Nation's historic built environment; and

"(6) assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities."

TITLE II—HISTORIC PRESERVATION PROGRAM

SEC. 201. (a) Section 101 of the National Historic Preservation Act is amended to read as follows:

"SEC. 101. (a) (1) (A) The Secretary of the Interior is authorized to expand and maintain a National Register of Historic Places composed of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture.

"(B) Properties meeting the criteria for National Historic Landmarks established pursuant to paragraph (2) shall be designated as 'National Historic Landmarks' and included on the National Register, subject to the requirements of paragraph (6). All historic properties included on the National Register on the date of the enactment of the National Historic Preservation Act Amendments of 1980 shall be deemed to be included on the National Register as of their initial listing for purposes of this Act. All historic properties listed in the Federal Register of February 6, 1979, as 'National Historic Landmarks' or thereafter prior to the effective date of this Act are declared by Congress to be National Historic Landmarks of national historic significance as of their initial listing as such in the Federal Register for purposes of this Act; except that in cases of National Historic Landmark districts for which no boundaries have been established, boundaries must first be published in the Federal Register and submitted to the

Committee on Energy and Natural Resources of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives.

"(2) The Secretary shall establish or revise criteria for properties to be included on the National Register and criteria for National Historic Landmarks, and shall also promulgate or revise regulations as may be necessary for—

"(A) nominating properties for inclusion in, and removal from, the National Register and the recommendation of properties by certified local governments;

"(B) obtaining the consent of property owners prior to including their property on the National Register, designating their property as a National Historic Landmark, or nominating their property for inclusion in the World Heritage List;

"(C) designating properties as National Historic Landmarks and removing such designation;

"(D) considering appeals from such recommendations, nominations, removals, and designations (or any failure or refusal by a nominating authority to nominate or designate);

"(E) nominating historic properties for inclusion in the World Heritage List in accordance with the terms of the Convention concerning the Protection of the World Cultural and Natural Heritage;

"(F) making determinations of eligibility of properties for inclusion on the National Register; and

"(G) notifying the owner of a property, any appropriate local governments, and the general public, when the property is being considered for inclusion on the National Register, for designation as a National Historic Landmark or for nomination to the World Heritage List.

"(3) Subject to the requirements of paragraph (6), any State which is carrying out a program approved under subsection (b), shall nominate to the Secretary properties which meet the criteria promulgated under subsection (a) for inclusion on the National Register. Any property nominated under this paragraph or under section 110(a) (2) shall be included on the National Register on the date forty-five days after receipt by the Secretary of the nomination and the necessary documentation, unless the Secretary disapproves such nomination within such forty-five day period or unless an appeal is filed under paragraph (5).

"(4) Subject to the requirements of paragraph (6) the Secretary may accept a nomination directly from any person or local government for inclusion of a property on the National Register only if such property is located in a State where there is no program approved under subsection (b). The Secretary may include on the National Register any property for which such a nomination is made if he determines that such property is eligible in accordance with the regulations promulgated under paragraph (2). Such determination shall be made within ninety days from the date of the nomination unless the nomination is appealed under paragraph (5).

"(5) Any person or local government may appeal a nomination of any historic property for inclusion on the National Register and may appeal the failure or refusal of a nominating authority to nominate a property in accordance with this subsection.

"(6) The Secretary may not include any non-Federal property on the National Register of Historic Places unless the nomination for such inclusion is accompanied by a statement in writing that the owner of such property concurs to such inclusion; and the Secretary may not designate any non-Federal property as a National Historic Landmark unless the owner of such property concurs in writing to such designation. The Secretary may not include any historic district on the National Register of Historic Places unless the nomination for such inclusion is accompanied by a statement in writing that a majority of the owners of affected non-Federal property have concurred to such inclusion; and the Secretary may not designate any historic district as a National Historic Landmark unless he certifies that a majority of the owners of affected non-Federal property have concurred to such designation.

"(7) The Secretary shall promulgate, or revise, regulations—

"(A) ensuring that significant prehistoric and historic artifacts, and associated records, subject to section 110 of this Act, the Act of June 27, 1960 (16 U.S.C. 469c), and the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa and following) are deposited in an institution with adequate long-term curatorial capabilities;

"(B) establishing a uniform process and standards for documenting historic properties by public agencies and private parties for purposes of incorporation into, or complementing, the national historical architectural and engineering records within the Library of Congress; and

"(C) certifying local governments, in accordance with subsection (c) (1) and for the allocation of funds pursuant to section 103(c) of this Act.

"(b) (1) The Secretary in consultation with the National Conference of State Historic Preservation Officers and the National Trust for Historic Preservation, shall promulgate or revise regulations for State Historic Preservation programs. Such regulations shall provide that a State program submitted to the Secretary under this section shall be approved by the Secretary if he determines that the program—

"(A) provides for the designation and appointment by the Governor of a 'State Historic Preservation Officer' to administer such program in accordance with paragraph (3) and for the employment or appointment by such officer of such professionally qualified staff as may be necessary for such purposes;

"(B) provides for an adequate and qualified State historic preservation review board designated by the State Historic Preservation Officer unless otherwise provided for by State law; and

"(C) provides for adequate public participation in the State Historic Preservation Program, including the process of recommending properties for nomination to the National Register.

"(2) Periodically, but not less than every four years after the approval of any State program under this subsection, the Secretary shall evaluate such program to make a determination as to whether or not it is in compliance with the requirements of this Act. If at any time, the Secretary determines that a State program does not comply with such requirements, he shall disapprove such program, and suspend in whole or in part assistance to such State under subsection (d) (1), unless there are adequate assurances that the program will comply with such requirements within a reasonable period of time. The Secretary may also conduct periodic fiscal audits of State programs approved under this section.

"(3) It shall be the responsibility of the State Historic Preservation Officer to administer the State Historic Preservation Program and to—

"(A) in cooperation with Federal and State agencies, local governments, and private organizations and individuals, direct and conduct a comprehensive statewide survey of historic properties and maintain inventories of such properties;

"(B) identify and nominate eligible properties to the National Register and otherwise administer applications for listing historic properties on the National Register;

"(C) prepare and implement a comprehensive statewide historic preservation plan;

"(D) administer the State program of Federal assistance for historic preservation within the State;

"(E) advise and assist, as appropriate, Federal and State agencies and local governments in carrying out their historic preservation responsibilities;

"(F) cooperate with the Secretary, the Advisory Council on Historic Preservation, and other Federal and States agencies, local governments, and organizations and individuals to ensure that historic properties are taken into consideration at all levels of planning and development;

"(G) provide public information, education, and training and technical assistance relating to the Federal and State Historic Preservation Programs; and

"(H) cooperate with local governments in the development of local historic preservation programs and assist local governments in becoming certified pursuant to subsection (c).

"(4) Any State may carry out all or any part of its responsibilities under this subsection by contract or cooperative agreement with any qualified nonprofit organization or educational institution.

"(5) Any State historic preservation program in effect under prior authority of law may be treated as an approved program for purposes of this subsection until the earlier of—

"(A) the date on which the Secretary approves a program submitted by the State under this subsection or

"(B) three years after the date of the enactment of the National Historic Preservation Act Amendments of 1980.

"(c)(1) Any State program approved under this section shall provide a mechanism for the certification by the State Historic Preservation Officer of local governments to carry out the purposes of this Act and provide for the transfer, in accordance with section 103(c), of a portion of the grants received by the States under this Act, to such local governments. Any local government shall be certified to participate under the provisions of this section if the applicable State Historic Preservation Officer, and the Secretary, certifies that the local government—

"(A) enforces appropriate State or local legislation for the designation and protection of historic properties ;

"(B) has established an adequate and qualified historic preservation review commission by State or local legislation ;

"(C) maintains a system for the survey and inventory of historic properties that furthers the purposes of subsection (b) ;

"(D) provides for adequate public participation in the local historic preservation program, including the process of recommending properties for nomination to the National Register ; and

"(E) satisfactorily performs the responsibilities delegated to it under this Act.

Where there is no approved State program, a local government may be certified by the Secretary if he determines that such local government meets the requirements of subparagraphs (A) through (E) ; and in any such case the Secretary may make grants-in-aid to the local government for purposes of this section.

"(2) (A) Before a property within the jurisdiction of the certified local government may be considered by the State to be nominated to the Secretary for inclusion on the National Register, the State Historic Preservation Officer shall notify the owner, the applicable chief local elected official, and the local historic preservation commission. The commission, after reasonable opportunity for public comment, shall prepare a report as to whether or not such property, in its opinion, meets the criteria of the National Register. Within sixty days of notice from the State Historic Preservation Officer, the chief local elected official shall transmit the report of the commission and his recommendation to the State Historic Preservation Officer. Except as provided in subparagraph (B), after receipt of such report and recommendation, or if no such report and recommendation are received within sixty days, the State shall make the nomination pursuant to section 101(a). The State may expedite such process with the concurrence of the certified local government.

"(B) If both the commission and the chief local elected official recommend that a property not be nominated to the National Register, the State Historic Preservation Officer shall take no further action, unless within thirty days of the receipt of such recommendation by the State Historic Preservation Officer an appeal is filed with the State. If such an appeal is filed, the State shall follow the procedures for making a nomination pursuant to section 101(a). Any report and recommendations made under this section shall be included with any nomination submitted by the State to the Secretary.

"(3) Any local government certified under this section or which is making efforts to become so certified shall be eligible for funds under the provisions of sections 103(c) of this Act, and shall carry out any responsibilities delegated to it in accordance with such terms and conditions as the Secretary deems necessary or advisable.

"(d)(1) The Secretary shall administer a program of matching grants-in-aid to the States for historic presentation projects, and State historic preservation programs, approved by the Secretary and having as their purpose the identification of historic properties and the preservation of properties included on the National Register.

"(3) The Secretary shall administer a program of matching grant-in-aid to the National Trust for Historic Preservation in the United States, chartered by Act of Congress approved October 28, 1949 (63 Stat. 927), for the purposes of carrying out the responsibilities of the National Trust.

"(3)(A) In addition to the programs under paragraphs (1) and (2), the Secretary shall administer a program of direct grants for the preservation of properties included on the National Register. Funds to support such program annually shall not exceed 10 percent of the amount appropriated annually for the fund established under section 108. These grants may be made by the Secretary, in consultation with the appropriate State Historic Preservation Officer—

"(i) for the preservation of National Historic Landmarks which are threatened with demolition or impairment and for the preservation of historic properties of World Heritage significance,

"(ii) for demonstration projects which will provide information concerning professional methods and techniques having application to historic properties,

"(iii) for the training and development of skilled labor in trades and crafts, and in analysis and curation, relating to historic preservation; and

"(iv) to assist persons or small businesses within any historic district included in the National Register to remain within the district.

"(B) The Secretary may also, in consultation with the appropriate State Historic Preservation Officer, make grants or loans or both under this section to Indian tribes and to nonprofit organizations representing ethnic or minority groups for the preservation of their cultural heritage.

"(C) Grants may be made under subparagraph (A) (i) and (iv) only to the extent that the project cannot be carried out in as effective a manner through the use of an insured loan under section 104.

"(e) No part of any grant made under this section may be used to compensate any person intervening in any proceeding under this Act.

"(f) In consultation with the Advisory Council on Historic Preservation, the Secretary shall promulgate guidelines for Federal agency responsibilities under section 110 of this title.

"(g) Within one year after the date of enactment of the National Historic Preservation Act Amendments of 1980, the Secretary shall establish, in consultation with the Secretaries of Agriculture and Defense, the Smithsonian Institution, and the Administrator of the General Services Administration, professional standards for the preservation of historic properties in Federal ownership or control.

"(h) The Secretary shall develop and make available to Federal agencies, State and local governments, private organizations and individuals, and other nations and international organizations pursuant to the World Heritage Convention, training in, and information concerning, professional methods and techniques for the preservation of historic properties and for the administration of the historic preservation program at the Federal, State, and local level. The Secretary shall also develop mechanisms to provide information concerning historic preservation to the general public including students."

SEC. 202. (a) Section 102(a) (3) of the National Historic Preservation Act is amended to read as follows:

"(3) for more than 50 per centum of the aggregate cost of carrying out projects and programs specified in section 101(d) (1) and (2) in any one fiscal year, except that for the costs of State or local historic surveys or inventories the Secretary shall provide 70 per centum of the aggregate cost involved in any one fiscal year."

(b) Section 102(a) of such Act is amended by adding the following at the end thereof: "Except as permitted by other law, the State share of the costs referred to in paragraph (3) shall be contributed by non-Federal sources. Notwithstanding any other provision of law, no grant made pursuant to this Act shall be treated as taxable income for purposes of the Internal Revenue Code of 1954."

(c) Subsection (c) of section 102 of such Act is repealed.

SEC. 203. (a) Subsection (b) of section 103 of the National Historic Preservation Act is amended by inserting after "projects" the words "and programs" and by striking out the second sentence thereof and substituting the following: "The Secretary shall notify each State of its apportionment under this subsection within thirty days following the date of enactment of legislation appropriating funds under this Act."

(b) Section 103 of such Act is amended by adding at the end thereof the following:

"(c) A minimum of 10 per centum of the annual apportionment distributed by the Secretary to each State for the purposes of carrying out this Act shall be transferred by the State, pursuant to the requirements of this Act, to local governments which are certified under section 101(c) for historic preservation projects or programs of such local governments. In any year in which the total annual apportionment to the States exceeds \$65,000,000, one half of the excess shall also be transferred by the States to local governments certified pursuant to section 101(c).

"(d) The Secretary shall establish guidelines for the use and distribution of funds under subsection (c) to insure that no local government receives a disproportionate share of the funds available, and may include a maximum or mini-

imum limitation on the amount of funds distributed to any single local government. The guidelines shall not limit the ability of any State to distribute more than 10 per centum of its annual apportionment under subsection (c), nor shall the Secretary require any State to exceed the 10 per centum minimum distribution to local governments."

SEC. 204. Section 104 of the National Historic Preservation Act is amended to read as follows:

"SEC. 104 (a) The Secretary shall establish and maintain a program by which he may, upon application of a private lender, insure loans (including loans made in accordance with a mortgage) made by such lender to finance any project for the preservation of a property included on the National Register.

"(b) A loan may be insured under this section only if—

"(1) the loan is made by a private lender approved by the Secretary as financially sound and able to service the loan properly;

"(2) the amount of the loan, and interest rate charged with respect to the loan, do not exceed such amount, and such a rate, as is established by the Secretary, by rule;

"(3) the Secretary has consulted the appropriate State Historic Preservation Officer concerning the preservation of the historic property;

"(4) the Secretary has determined that the loan is adequately secured and there is reasonable assurance of repayment;

"(5) the repayment period of the loan does not exceed the lesser of forty years or the expected life of the asset financed;

"(6) the amount insured with respect to such loan does not exceed 90 per centum of the loss sustained by the lender with respect to the loan; and

"(7) the loan, the borrower, and the historic property to be preserved meet other terms and conditions as may be prescribed by the Secretary, by rule, especially terms and conditions relating to the nature and quality of the preservation work.

The Secretary shall consult with the Secretary of the Treasury regarding the interest rate of loans insured under this section.

"(c) The aggregate unpaid principal balance of loans insured under this section and outstanding at any one time may not exceed the amount which has been covered into the Historic Preservation Fund pursuant to section 108 and subsections (g) and (i) of this section, as in effect on the date of the enactment of this Act but which has not been appropriated for any purpose.

"(d) Any contract of insurance executed by the Secretary under this section may be assignable, shall be an obligation supported by the full faith and credit of the United States, and shall be incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder.

"(e) The Secretary shall specify, by rule and in each contract entered into under this section, the conditions and method of payment to a private lender as a result of losses incurred by the lender on any loan insured under this section.

"(f) In entering into any contract to insure a loan under this section, the Secretary shall take steps to assure adequate protection of the financial interests of the Federal Government. The Secretary may—

"(1) in connection with any foreclosure proceeding, obtain, on behalf of the Federal Government, the property securing a loan insured under this title; and

"(2) operate or lease such property for such period as may be necessary to protect the interest of the Federal Government and to carry out subsection (g).

"(g)(1) In any case in which a historic property is obtained pursuant to subsection (f), the Secretary shall attempt to convey such property to any governmental or nongovernmental entity under such conditions as will ensure the property's continued preservation and use; except that if, after a reasonable time, the Secretary, on consultation with the Advisory Council on Historic Preservation, determines that there is no feasible and prudent means to convey such property and to ensure its continued preservation and use, then the Secretary may convey the property at the fair market value of its interest in such property to any entity without restriction.

"(2) Any funds obtained by the Secretary in connection with the conveyance of any property pursuant to paragraph (1) shall be covered into the historic preservation fund, in addition to the amounts covered into such fund pursuant to section 108 and subsection (i) of this section, and shall remain available in

such fund until appropriated by the Congress to carry out the purposes of this Act.

"(h) The Secretary may assess appropriate and reasonable fees in connection with insuring loans under this section. Any such fees shall be covered into the Historic Preservation Fund, in addition to the amounts covered into such fund pursuant to section 108 and subsection (g) of this section, and shall remain available in such fund until appropriated by the Congress to carry out purposes of this Act.

"(i) Notwithstanding any other provision of law, any loan insured under this section shall be treated as non-Federal funds for the purposes of satisfying any requirement of any other provision of law under which Federal funds to be used for any project or activity are conditioned upon the use of non-Federal funds by the recipient for payment of any portion of the costs of such project or activity.

"(j) Effective after the fiscal year 1981 there are authorized to be appropriated, such sums as may be necessary to cover payments incurred pursuant to subsection (e).

"(k) No debt obligation which is made or committed to be made, or which is insured or committed to be insured, by the Secretary under this section shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank."

Sec. 205. Section 108 of the National Historic Preservation Act is amended by inserting after the term "1981" the phrase "and \$150,000,000 for each of fiscal years 1982 through 1987".

Sec. 206. Title I of the National Historic Preservation Act is amended by adding the following new section at the end thereof:

"Sec. 110. (a) (1) The heads of all Federal agencies shall assume responsibility for the preservation of historic properties which are owned or controlled by such agency. Prior to acquiring, constructing, or leasing buildings for purposes of carrying out agency responsibilities, each Federal agency shall use, to the maximum extent feasible, historic properties available to the agency. Each agency shall undertake, consistent with the preservation of such properties and the mission of the agency and the professional standards established pursuant to section 101(f), any preservation, as may be necessary to carry out this section.

"(2) With the advice of the Secretary and in cooperation with the State historic preservation officer for the State involved, each Federal agency shall establish a program to locate, inventory, and nominate to the Secretary all properties under the agency's ownership or control by the agency, that appear to qualify for inclusion on the National Register in accordance with the regulations promulgated under section 101(a) (2) (A). Each Federal agency shall exercise caution to assure that any such property that might qualify for inclusion is not inadvertently transferred, sold, demolished, substantially altered, or allowed to deteriorate significantly.

"(b) Each Federal agency shall initiate measures to assure that where, as a result of Federal action or assistance carried out by such agency, an historic property is to be substantially altered or demolished, timely steps are taken to make or have made appropriate records, and that such records then be deposited, in accordance with section 101(a), in the Library of Congress or with such other appropriate agency as may be designated by the Secretary, for future use and reference.

"(c) The head of each Federal agency shall, under section 214, designate a qualified official to be known as the agency's 'preservation officer' who shall be responsible for coordinating that agency's activities under this Act. Each Preservation Officer and official designated at the field or regional level may, in order to be considered qualified, satisfactorily complete an appropriate training program established by the Secretary under section 101(g).

"(d) Consistent with the agency's missions and mandates, all Federal agencies shall carry out agency programs and projects (including those under which any Federal assistance is provided or any Federal license, permit, or other approval is required) in accordance with the purposes of this Act and give consideration to programs and projects which will further the purposes of this Act.

"(e) The Secretary shall review and approve the plans of transferees of surplus federally owned historic properties to ensure that the prehistorical, historical, architectural, or culturally significant values will be preserved or enhanced.

"(f) Prior to the approval of any Federal undertaking which may directly

and adversely affect any National Historic Landmark, the head of the responsible Federal agency shall, to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to such landmark, and shall afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on the undertaking.

"(g) Each Federal agency shall include the costs of preservation activities of such agency under this Act as eligible project costs in all undertakings of such agency or assisted by such agency. The eligible project costs shall also include amounts paid by a Federal agency to any State to be used in carrying out such preservation responsibilities of the Federal agency under this Act, and reasonable costs may be charged to Federal licensees and permittees as a condition to the issuance of such license or permit.

"(h) The Secretary shall establish an annual preservation awards program under which he may make monetary awards in amounts of not to exceed \$1,000 and provide citations for special achievement to officers and employees of Federal, State, and certified local governments in recognition of their outstanding contributions to the preservation of historic resources. Such program may include the issuance of annual awards by the President of the United States to any citizen of the United States recommended for such award by the Secretary.

"(i) Nothing in this Act shall be construed to require the preparation of an environmental impact statement where such a statement would not otherwise be required under the National Environmental Policy Act of 1969, and nothing in this Act shall be construed to provide any exemption from any requirement respecting the preparation of such a statement under such Act.

"(j) The Secretary shall promulgate regulations under which the requirements of this section may be waived in whole or in part in the event of a major natural disaster or an imminent threat to the national security."

Sec. 207. Title I of the National Historic Preservation Act is amended by adding the following at the end thereof:

"Sec. 111. (a) Notwithstanding any other provision of law, any Federal agency may, after consultation with the Advisory Council on Historic Preservation, lease an historic property owned by the agency to any person or organization, or exchange any property owned by the agency with comparable historic property, if the agency head determines that the lease or exchange will adequately insure the preservation of the historic property.

"(b) The proceeds of any lease under subsection (a) may, notwithstanding any other provision of law, be retained by the agency entering into such lease and used to defray the costs of administration, maintenance, repair, and related expenses incurred by the agency with respect to such property or other properties which are on the National Register which are owned by, or under the jurisdiction or control of, such agency. Any surplus proceeds from such leases shall be deposited into the Treasury of the United States at the end of the second fiscal year following the fiscal year in which such proceeds were received.

"(c) The head of any Federal agency having responsibility for the management of any historic property may, after consultation with the Advisory Council on Historic Preservation, enter into contracts for the management of such property. Any such contract shall contain such terms and conditions as the head of such agency deems necessary or appropriate to protect the interests of the United States and insure adequate preservation of the historic property."

Sec. 208. Notwithstanding section 7(a) of the Act of June 27, 1960 (16 U.S.C. 469c), or any other provision of law to the contrary—

(1) identification, surveys, and evaluation carried out with respect to historic properties within project areas may be treated for purposes of any law or rule of law as planning costs of the projects and not as costs of mitigation;

(2) reasonable costs for identification, surveys, evaluation, and data recovery carried out with respect to historic properties within project areas may be charged to Federal licensees and permittees as a condition to the issuance of such license or permit; and

(3) Federal agencies, with the concurrence of the Secretary and after notification of the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, are authorized to waive, in appropriate cases, the 1 per centum limitation contained in section 7(a) of such Act.

TITLE III—AMENDMENTS TO TITLE II OF NATIONAL HISTORIC PRESERVATION ACT

SEC. 301. (a) Section 201(a) of the National Historic Preservation Act is amended by striking out "twenty-nine" and all that follows and submitting: "the following members:

"(1) a Chairman appointed by the President selected from the general public;

"(2) the Secretary of the Interior;

"(3) the Architect of the Capitol;

"(4) the Secretary of Agriculture and the heads of three other agencies of the United States (other than the Department of the Interior) the activities of which affect historic preservation, appointed by the President;

"(5) one Governor appointed by the President;

"(6) one mayor appointed by the President;

"(7) the President of the National Conference of State Historic Preservation Officers;

"(8) the Chairman of the National Trust for Historic Preservation;

"(9) four experts in the field of historic preservation appointed by the President from the disciplines of architecture, history, archeology, and other appropriate disciplines; and

"(10) three at-large members from the general public, appointed by the President."

(b) Section 201(b) of such Act is amended by deleting (1) through (17) and substituting (2) through (8) (other than (5) and (6))" and by inserting the following before the period ", except that, in the case of paragraphs (2) and (4), no such officer other than an Assistant Secretary or an officer having major department-wide or agency-wide responsibilities may be so designated".

(c) Section 201(c) of such Act is amended to read as follows:

"(c) Each member of the Council appointed under paragraph (1), and under paragraphs (9) and (10) of subsection (a) shall serve for a term of four years from the expiration of his predecessor's term; except that the members first appointed under that paragraph shall serve for terms of one to four years, as designated by the President at the time of appointment, in such manner as to insure that the terms of not more than two of them will expire in any one year. The members appointed under paragraphs (5) and (6) shall serve for the term of their elected office but not in excess of four years. An appointed member may not serve more than two terms. An appointed member whose term has expired shall serve until that member's successor has been appointed."

(d) Section 201(d) of such Act is amended to read as follows:

"(d) A vacancy in the Council shall not affect its powers, but shall be filled, not later than sixty days after such vacancy commences, in the same manner as the original appointment (and for the balance of any unexpired terms). The members of the Advisory Council on Historic Preservation appointed by the President under this Act as in effect on the day before the enactment of the National Historic Preservation Act Amendments of 1980 shall remain in office until all members of the Council, as specified in this section, have been appointed. The members first appointed under this section shall be appointed not later than one hundred and eighty days after the enactment of the National Historic Preservation Act Amendments of 1980".

(e) Section 201(e) of such Act is amended to read as follows:

"(e) The President shall designate a Vice Chairman, from the members appointed under paragraph (5), (6), (9), or (10). The Vice Chairman may act in place of the Chairman during the absence or disability of the Chairman or when the office is vacant."

(f) Section 201(f) of such Act is amended by deleting the word "Fifteen" and substituting in lieu thereof the word "Nine".

(g) (1) Section 202(a) of such Act is amended by striking out "and" after the semicolon in paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new paragraphs:

"(6) review the policies and programs of Federal agencies and recommend to such agencies methods to improve the effectiveness, coordination, and consistency of those policies and programs with the policies and programs carried out under this Act; and

"(7) inform and educate Federal agencies, State and local governments, Indian tribes, other nations and international organizations and private groups and individuals as to the Council's authorized activities."

(2) Section 202(b) of such Act is amended by inserting the following before the period at the end thereof: "and shall provide the Council's assessment of current and emerging problems in the field of historic preservation and an evaluation of the effectiveness of the programs of Federal agencies, State and local governments, and the private sector in carrying out the purposes of this Act".

(h) Section 204 of such Act is amended by striking out the first sentence and so much of the second sentence as precedes the word "shall receive" and substituting "The members of the Council specified in paragraphs (2), (3), and (4) of section 201(a) shall serve without additional compensation. The other members of the Council".

(i) The third sentence of section 205(b) of such Act is amended by inserting after the words "whenever appropriate" the phrase ", including enforcement of agreements with Federal agencies to which the Council is a party".

(j) Section 205(g) of such Act is amended by (1) inserting after the word "duties" in the second sentence "and may also receive donations of moneys for such purpose, and the Executive Director is authorized, in his discretion, to accept, hold, use, expend, and administer the same for the purposes of this Act"; and (2) striking out "(1) through (16)" and substituting "(2) through (4)".

(k) Section 210 of such Act is amended by striking out the first sentence thereof.

(l) Section 211 of such Act is amended by adding the following at the end thereof: "The Council shall, by regulation, establish such procedures as may be necessary to provide for participation by local governments in proceedings and other actions taken by the Council with respect to undertakings referred to in section 106 which affect such local governments."

SEC. 302. (a) Title II of the National Historic Preservation Act is amended by adding the following new sections at the end thereof:

"SEC. 213. To assist the Council in discharging its responsibilities under this Act, the Secretary at the request of the Chairman, shall provide a report to the Council detailing the significance of any historic property, describing the effects of any proposed undertaking on the affected property, and recommending measures to avoid, minimize, or mitigate adverse effects.

"SEC. 214. The Council, with the concurrence of the Secretary, shall promulgate regulations or guidelines, as appropriate, under which Federal programs or undertakings may be exempted from any or all of the requirements of this Act when such exemption is determined to be consistent with the purposes of this Act, taking into consideration the magnitude of the exempted undertaking or program and the likelihood of impairment of historic properties."

(b) Section 212(b) of such Act is amended by striking out "Senate Committee on Interior and Insular Affairs" and substituting "Senate Committee on Energy and Natural Resources".

TITLE IV—INTERNATIONAL ACTIVITIES AND WORLD HERITAGE CONVENTION

SEC. 401. (a) The Secretary of the Interior shall direct and coordinate United States participation in the Convention Concerning the Protection of the World Cultural and Natural Heritage, approved by the Senate on October 26, 1973, in cooperation with the Secretary of State, the Smithsonian Institution, and the Advisory Council on Historic Preservation. Whenever possible, expenditures incurred in carrying out activities in cooperation with other nations and international organizations shall be paid for in such excess currency of the country or area where the expense is incurred as may be available to the United States.

(b) The Secretary of the Interior shall periodically nominate properties he determines are of international significance to the World Heritage Committee on behalf of the United States. No property may be so nominated unless it has previously been determined to be of national significance. Each such nomination shall include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment (including restrictive covenants, easements, or other forms of protection). Before making any such nomination, the Secretary shall notify the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

(c) No non-Federal property may be nominated by the Secretary of the Interior to the World Heritage Committee for inclusion on the World Heritage List unless the owner of the property concurs in writing to such nomination.

SEC. 402. Prior to the approval of any Federal undertaking outside the United States which may directly and adversely affect a property which is on the World Heritage List or on the applicable country's equivalent of the National Register, the head of a Federal agency having direct or indirect jurisdiction over such undertaking shall take into account the effect of the undertaking on such property for purposes of avoiding or mitigating any adverse effects.

TITLE V—GENERAL, ADMINISTRATIVE, AND MISCELLANEOUS PROVISIONS

SEC. 501. The National Historic Preservation Act is amended by adding the following new title at the end thereof :

“TITLE III

“SEC. 301. As used in this Act, the term—

“(1) ‘Agency’ means ‘agency’ as such term is defined in section 551 of title 5, United States Code.

“(2) ‘State’ means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands.

“(3) ‘Local government’ means a city, county, parish, township, municipality, or borough, or any other general purpose political subdivision of any State.

“(4) ‘Indian tribe’ means the governing body of any Indian tribe, band, nation, or other group which is recognized as an Indian tribe by the Secretary of the Interior and for which the United States holds land in trust or restricted status for that entity or its members. Such term also includes any Native village corporation, regional corporation, and Native Group established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1701 et seq.).

“(5) ‘Historic property’ or ‘historic resource’ means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on the National Register; such term includes artifacts, records, and remains which are related to such a district, site, building, structure, or object.

“(6) ‘National Register’ or ‘Register’ means the National Register of Historic Places established under section 101.

“(7) ‘Undertaking’ means any action as described in section 106.

“(8) ‘Preservation’ or ‘historic preservation’ includes identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance and reconstruction, or any combination of the foregoing activities.

“(9) ‘Cultural park’ means a definable urban area which is distinguished by historic resources and land related to such resources and which constitutes an interpretive, educational, and recreational resource for the public at large.

“(10) ‘Historic conservation district’ means an urban area of one or more neighborhoods and which contains (A) historic properties, (B) buildings having similar or related architectural characteristics, (C) cultural cohesiveness, or (D) any combination of the foregoing.

“(11) ‘Secretary’ means the Secretary of the Interior except where otherwise specified.

(12) “State historic preservation review board” means a board, council, commission, or other similar collegial body established as provided in section 101(b)(1)(B)—

(A) the members of which are appointed by the State Historic Preservation Officer (unless otherwise provided for by State law),

(B) a majority of the members of which are professionals qualified in the following and related disciplines: history, prehistoric and historic archaeology, architectural history, and architecture, and

(C) which has the authority to—

(i) review National Register nominations and appeals from nominations:

(ii) review appropriate documentation submitted in conjunction with the Historic Preservation Fund;

(iii) provide general advice and guidance to the State Historic Preservation Officer, and

(iv) perform such other duties as may be appropriate.

(13) "Historic preservation review commission" means a board, council, commission, or other similar collegial body which is established by State or local legislation as provided in section 101(c)(1)(B), and the members of which are appointed, unless otherwise provided by State or local legislation, by the chief elected official of the jurisdiction concerned from among—

(A) professionals in the disciplines of architecture, history, architectural history, planning, archaeology, or related disciplines, to the extent such professionals are available in the community concerned, and

(B) such other persons as have demonstrated special interest, experience, or knowledge in history, architecture, or related disciplines and as will provide for an adequate and qualified commission.

"SEC. 302. Each Federal agency is authorized to expend funds appropriated for its authorized programs for the purposes of this Act.

"SEC. 303. (a) The Secretary is authorized to accept donations and bequests of money and personal property for the purposes of this Act and shall hold, use, expend, and administer the same for such purposes.

"(b) The Secretary is authorized to accept gifts or donations of less than fee interests in any historic property where the acceptance of such interests will facilitate the conservation or preservation of such properties. Nothing in this section or in any provision of this Act shall be construed to affect or impair any other authority of the Secretary under other provision of law to accept or acquire any property for conservation or preservation or for any other purpose.

"SEC. 304. The head of any Federal agency, after consultation with the Secretary, shall withhold from disclosure to the public, information relating to the location or character of historic resources whenever the head of the agency or the Secretary determines that the disclosure of such information may create a substantial risk of harm, theft, or destruction to such resources or to the area or place where such resources are located.

"SEC. 305. In any civil action brought in any United States district court by any interested person to enforce the provisions of this Act, if such person substantially prevails in such action, the court may award attorneys' fees, expert witness fees, and other costs of participating in such action, as the court deems reasonable.

"SEC. 306. (a) In order to provide a national center to commemorate and encourage the building arts and to preserve and maintain a nationally significant building which exemplifies the great achievements of the building arts in the United States, the Secretary and the Administrator of the General Services Administration are authorized and directed to enter into a cooperative agreement with the Committee for a National Museum of the Building Arts, Incorporated, a nonprofit corporation organized and existing under the laws of the District of Columbia, or its successor, for the operation of a National Museum for the Building Arts in the Federal Building located in the block bounded by Fourth Street, Fifth Street, F Street, and G Street, Northwest in Washington, District of Columbia. Such museum shall—

"(1) collect and disseminate information concerning the building arts, including the establishment of a national reference center for current and historic documents, publications, and research relating to the building arts;

"(2) foster educational programs relating to the history, practice and contribution to society of the building arts, including promotion of imaginative educational approaches to enhance understanding and appreciation of all facets of the building arts;

"(3) publicly display temporary and permanent exhibits illustrating, interpreting and demonstrating the building arts;

"(4) sponsor or conduct research and study into the history of the building arts and their role in shaping our civilization; and

"(5) encourage contributions to the building arts.

"(b) The cooperative agreement referred to in subsection (a) shall include provisions which—

"(1) make the site available to the Committee referred to in subsection (a) without charge;

"(2) provide, subject to available appropriations, such maintenance, security, information, janitorial and other services as may be necessary to assure the preservation and operation of the site; and

"(3) prescribe reasonable terms and conditions by which the Committee can fulfill its responsibilities under this Act.

"(c) The Secretary is authorized and directed to provide matching grants-in-aid to the Committee referred to in subsection (a) for its programs related to historic preservation. The Committee shall match such grants-in-aid in a manner and with such funds and services as shall be satisfactory to the Secretary, except that no more than \$500,000 may be provided to the Committee in any one fiscal year.

"(d) The renovation of the site shall be carried out by the Administrator with the advice of the Secretary. Such renovation shall, as far as practicable—

"(1) be commenced immediately,

"(2) preserve, enhance, and restore the distinctive and historically authentic architectural character of the site consistent with the needs of a national museum of the building arts and other compatible use, and

"(3) retain the availability of the central court of the building, or portions thereof, for appropriate public activities.

"(e) The Committee shall submit an annual report to the Secretary and the Administrator concerning its activities under this section and shall provide the Secretary and the Administrator with such other information as the Secretary may, from time to time, deem necessary or advisable.

"(f) For purposes of this section, the term 'building arts' includes, but shall not be limited to, all practical and scholarly aspects of prehistoric, historic, and contemporary architecture, archaeology, construction, building technology and skills, landscape architecture, preservation and conservation, building and construction, engineering, urban and community design and renewal, city and regional planning, and related professions, skills, trades, and crafts.

"Sec. 307. (a) At least thirty days prior to publishing in the Federal Register any proposed regulation required by this Act, the Secretary shall transmit a copy of the regulation to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The Secretary also shall transmit to such committees a copy of any final regulation prior to its publication in the Federal Register. Except as provided in subsection (b) of this section, no final regulation of the Secretary shall become effective prior to the expiration of thirty calendar days after it is published in the Federal Register during which either or both Houses of Congress are in session.

"(b) In the case of an emergency, a final regulation of the Secretary may become effective without regard to the last sentence of subsection (a) if the Secretary notified in writing the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate setting forth the reasons why it is necessary to make the regulation effective prior to the expiration of the thirty-day period.

"(c) Except as provided in subsection (b), the regulation shall not become effective if, within ninety calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the regulation promulgated by the Secretary dealing with the matter of _____, which regulation was transmitted to Congress on _____,' the blank spaces therein being appropriately filled.

"(d) If at the end of sixty calendar days of continuous session of Congress after the date of promulgation of a regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the regulation, and neither House has adopted such a resolution, the regulation may go into effect immediately. If, within such sixty calendar days, such a committee has reported or been discharged from further consideration of such a resolution, the regulation may go into effect not sooner than ninety calendar days of continuous session of Congress after its promulgation unless disapproved as provided for.

"(e) For the purposes of this section—

"(1) continuity of session is broken only by an adjournment sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of sixty and ninety calendar days of continuous session of Congress.

"(f) Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such regulation."

Sec. 502. The Secretary, in cooperation with the American Folklife Center of the Library of Congress shall, within two years after the date of the enactment

of this Act, submit a report to the President and the Congress on preserving and conserving the intangible elements of our cultural heritage such as arts, skills, folklife, and folkways. The report shall take into account the view of other public and private organizations, as appropriate. This report shall include recommendations for legislative and administrative actions by the Federal Government in order to preserve, conserve, and encourage the continuation of the diverse traditional prehistoric, historic, ethnic, and folk cultural traditions that underlie and are a living expression of our American heritage.

SEC. 503. The Advisory Council on Historic Preservation, in cooperation with the Secretary and the Secretary of the Treasury, shall submit a report to the President and the Congress on Federal tax laws relating to historic preservation or affecting in any manner historic preservation. Such report shall include recommendations respecting amendments to such laws which would further the purposes of this Act. Such report shall be submitted within one year after the date of enactment of this Act.

SEC. 504. The Secretary shall submit a report directly to the President and the Congress on or before June 1, 1986, reviewing the operation of the Historic Preservation Fund and the national historic preservation program since the enactment of this Act and recommending appropriate funding levels, the time period for the reauthorization for appropriations from the fund, and other appropriate legislative action to be undertaken upon the expiration of the current fund authorization.

SEC. 505. The Pennsylvania Avenue Development Corporation shall review the development plan for this parts of the development area which are not under development or committed for development as of the date of the enactment of this Act, to identify means by which the historic values of such parts of the development area may be preserved and enhanced to the maximum extent feasible. The foregoing review shall not be limited by the applicable provisions of the development plan in effect at the time of the review; nor shall the review require any actions by the Corporation during the course of the review or during its consideration by the Congress. Within one year of the date of this Act the Corporation shall submit to the appropriate committees of Congress a report containing the findings of the review required under this section, together with the Corporation's recommendations for any legislative measures or funding necessary to carry out the purposes of this section. The report shall also include a description of those activities which the Corporation proposes to undertake to carry out the purposes of this section and the financial implications of carrying out those activities.

SEC. 506. The Secretary shall undertake a comprehensive study and formulate recommendations for a coordinated system of cultural parks and historic conservation districts that provide for the preservation, interpretation, development, and use by public and private entities of the prehistoric, historic, architectural, cultural, and recreational resources found in definable urban areas throughout the Nation. The study shall propose alternatives concerning the management and funding of such system by public and private entities and by various levels of government. The Secretary shall submit a report of his study and recommendations to the President and the Congress within two years after the enactment of this Act.

SEC. 507. The Secretary, in cooperation with the Secretary of the Treasury, the Administrator of the United States Fire Administration, and the Administrator of the Federal Insurance Administration, shall submit a report to the President and the Congress on fire in historic properties. Such report shall include a review of Federal laws to determine any relationship between these laws and arson or fire by "suspicious origin", and to make recommendations respecting amendments to such laws should a correlation be found to exist. Such report shall include the feasibility and necessity of establishing or developing protective measures at the Federal, State, or local level for the prevention, detection, and control of arson or fire by "suspicious origin" in historic properties. Such report shall also include recommendations regarding the Federal role in assisting the States and local governments with protecting historic properties from damage by fire. Such report shall be submitted within eighteen months after the date of enactment of this Act.

INTRODUCTION

As reported by the Committee on Interior and Insular Affairs, H.R. 5496 amends the Act of October 15, 1966 (The National Historic Preservation Act) and contains a number of other provisions that will further the preservation of historic properties.

H.R. 5496 was introduced by Representative John F. Seiberling and cosponsored by:

Mr. Udall.	Mr. Howard
Mr. P. Burton	Mr. Wolff
Mr. Sebelius	Mr. Richmond
Mr. Edwards (Alabama)	Mr. Bingham
Mr. Dellums	Mr. Ottinger
Mr. McCloskey	Mr. Lundine
Mr. Beilenson	Mr. Weiss
Mr. Stark	Mr. Peyser
Mr. Lagomarsino	Mr. Downey
Mr. Brown (California)	Mr. Stratton
Mr. Kogovsek	Mr. Gudger
Mr. Bennett	Mr. Mottl
Mr. Stack	Mr. Howard
Mr. Pepper	Mr. Mineta
Mr. Won Pat	Mr. Vanik
Mr. Derwinski	Mr. Weaver
Mr. Simon	Mr. McDade
Mr. Winn	Mr. Murphy (Pennsylvania)
Mr. Mazzoli	Mr. Kostmayer
Mr. Edwards (California)	Mr. Gray
Mr. Long (Louisiana)	Mr. Ritter
Mrs. Boggs	Mr. Beard
Mrs. Byron	Mr. Jenrette
Mr. Barnes	Mr. Duncan
Mr. Long (Maryland)	Mr. Eckhardt
Mr. Studds	Mr. Pickle
Mr. Baldus	Mr. Frost
Ms. Mikulski	Mr. de la Garza
Mrs. Spellman	Mr. Wyatt
Mr. Bauman	Mr. Jeffords
Mr. Moakley	Mr. Whitehurst
Mr. Sabo	Mr. Pritchard
Mr. Vento	Mr. Lowry
Mr. Gephardt	Mr. Rahall
Mr. Williams (Montana)	Mr. Kastenmeier
Mr. Florio	Mr. Baldus
Mr. Rodino	Mr. Aspin
Mrs. Fenwick	Mr. Corrada
Mr. Hughes	Mr. Evans
Mr. Thompson	Mr. Gore

As reported by the Committee, H.R. 5496 also incorporates a number of provisions relating to historic preservation contained in H.R. 6504, introduced by Representative Phillip Burton and cosponsored by Mr. Seiberling, Mr. Sebelius, Mr. Vento, Mr. Bingham and Mr. Kostmayer; H.R. 6804, introduced by Mr. Phillip Burton and cosponsored by Mr. Seiberling; H.R. 6805, introduced by Mr. Phillip Burton and cosponsored by Mr. Seiberling, Mr. Vento, Mr. Bingham, and Mr. Kostmayer; and H.R. 2484, introduced by Mr. Bingham.

OVERVIEW AND PERSPECTIVE

H.R. 5496 represents the first major change in the National Historic Preservation Act since 1966. Like the 1966 Act, it is a landmark measure for American historic preservation. It denotes the maturation of over a century of Federal, State, local and private efforts to preserve significant remnants of our nation's historic cultural heritage.

The National Historic Preservation Act of 1966 expanded the role of the Federal government in historic preservation. Under the Historic Sites Act of 1935, the Federal role was limited to preserving historic sites and buildings of national significance. In 1966 Congress responded to the devastating effects of various Federal programs—such as urban renewal and freeway systems—on historic properties throughout the country and enacted the National Historic Preservation Act.

The 1966 Act established, for the first time, a partnership between the Federal Government and the States and the private sector to protect our nation's historic resources. It broadened the National Historic Landmark program to establish the National Register of Historic Places, a list of significant historic properties at the national, State and local levels. The Act also provided grants to States to conduct historic surveys and plans and to acquire and develop historic properties; grants were also provided for the National Trust to carry out its responsibilities. It created the Advisory Council on Historic Preservation and established a process for reviewing the effects of Federal undertakings on historic properties.

H.R. 5496 builds on over 14 years of experience in developing a broad national historic preservation program. It recognizes the management needs of a program for identification and protection of over 15,000 years of American life in prehistoric hunting camps, frontier homesteads and towns, early 20th Century working-class neighborhoods, as well as major public buildings and monuments.

Indeed, the historic preservation movement itself has grown tremendously in the past decade. What started as a small movement in the 19th Century to save a few historic treasures such as Casa Grande Ruins in Arizona and Mount Vernon in Virginia now encompasses a wide range of historic properties in every State and nearly every city and town in America including the Canal-era village of Peninsula, Ohio, Chinatown in San Francisco, California, the prehistoric Pueblo Bonito in Chaco Canyon, New Mexico, a Russian Orthodox church in Sitka, Alaska, and a 16th Century fort in San Juan, Puerto Rico.

H.R. 5496 is an affirmative directive for historic preservation programs throughout our nation. It builds on the Federal program established by the National Historic Preservation Act of 1966 and establishes a firm foundation for historic preservation across the United States for the decades to come.

HISTORY OF HISTORIC PRESERVATION

Historic preservation in the United States began through the efforts of private organizations and individuals. Federal support was slow to follow. Even today, its role is mainly to provide stimulus and leadership for what is primarily a State, local and private sector activity.

Over 100 years ago, George Washington's home was offered to the Commonwealth of Virginia and to the Federal government. Both refused. Ann Pamela Cunningham, recognizing the importance of that site and the need to preserve it for future generations, formed the Mount Vernon Ladies' Association to save it. They did, and today millions of Americans continue to visit the home, still owned and operated by "The Ladies."

The first Federal preservation project was in the late 19th century, initiated by a citizen drive to protect from pot hunters the prehistoric Casa Grande ruins in Arizona. Vandalism of this and other archeological sites led to enactment of the Antiquities Act of 1906. That Act provided penalties for destroying or damaging any historic or prehistoric ruin on the public lands and authorized the President to set aside historic places, landmarks and structures as well as other lands of significant scientific, natural, and scenic value. Thus, for example, Mesa Verde National Park was established as a monument on June 29, 1906 to protect some of the best-preserved prehistoric cliff dwellings in the United States. At the same time, the Archaeological Institute of America was Federally chartered to support archeological scholarship and excavation, and to disseminate information about archeology and antiquities to the general public. In 1916, the National Park Service was created and began its program of protection and enhancement of many historic and prehistoric sites.

In the 1930's, the Works Progress Administration (WPA), in its "make-work" programs, hired archeological supervisors and hundreds of laborers to excavate some of the great prehistoric mounds of the Mississippi, Ohio and Tennessee River valleys. Concurrently, American historians and architects, concerned about our Euro-American built environment in the midst of a developing public works program pushed for passage of the Historic Sites Act of 1935.

The Historic Sites Act of 1935 declared, for the first time, a national policy of historic preservation and authorized the Secretary of the Interior to initiate a number of preservation programs. Under the auspices of the National Park Service, the National Survey of Historic Sites and Buildings began in 1937 with the goal of identifying and evaluating nationally significant properties. Under the 1935 Act, the Historic American Buildings Survey and the Historic American Engineering Record have been created to document historic structures through photographs and measured drawings.

Since World War II, historians, architects, archeologists, and engineers have been particularly dismayed by the accelerated loss of the historic built environment, especially in urban areas, and of the prehistoric archeological record. To strengthen the private sector's role in historic preservation, the National Trust for Historic Preservation was chartered in 1949 as a private, non-profit organization whose chief purpose was to facilitate public participation in the preservation of historic properties and antiquities. In complement, in the post-war years, Federal involvement in historic preservation continued to expand into all aspects of programs that affect American heritage resources.

The late 1940's and subsequent surge in Federal reservoir construction had major adverse impacts on thousands of prehistoric riverside sites and historic homesteads and towns. As a result, the Smithsonian

Institution established the River Basin Surveys as a salvage program to recover at least some of the impacted artifacts and information before they were destroyed or inundated. In 1960, the Reservoir Salvage Act codified requirements for such programs on Federal projects.

In the meantime, development of the Interstate Highway System had other major adverse effects on historic properties. Recognition of this resulted in directives in the Federal-Aid Highway Acts of the mid-1950's to save any antiquities impacted by Federally funded road construction. This led to the establishment of Highway Archaeological Salvage Programs in most of the states by the late 1950's. Subsequently, to forestall the wholesale demolition of historic properties and neighborhoods, the Federal Highway Administration in 1966 was required to apply a "no prudent and feasible alternative" standard for planning and implementing specific projects that would adversely impact identified historic resources.

The 1960's saw a furthering of public concern about urban historic preservation.

In November 1964, the report of a Task Force on the Preservation of Natural Beauty was submitted to the President. It recommended, among other things, that: the National Park Service should be required to prepare a comprehensive inventory of the Nation's historic sites and areas within five years; Federal loans and matching grants should be used by State and local governments for historic preservation; machinery should be set up so that Federally financed building projects do not conflict with historic preservation; and the National Trust for Historic Preservation should be given a "fresh legislative lease on life."

In May 1965, the White House Conference on Natural Beauty was convened; the Conference built upon the recommendations of the Task Force and included recommendations for a program to certify historic landmark structures or areas; to create historic districts, wherever appropriate, including the whole of some historic towns; to expand public programs of ownership of historic structures and areas; to develop a coordinated public-private program of preservation, with the Federal government taking a leadership role; and to overhaul Federal, State and local tax policies to encourage preservation of approved historic and landmark structures and areas.

In late 1965, the U.S. Conference of Mayors sponsored a "Special Committee on Historic Preservation," to study the problems facing historic preservation in the United States and to recommend necessary changes. Members of the committee included officials in various posts at all levels of government and representatives of national preservation organizations and institutions, including the National Trust. Their recommendations, published in February 1966 in a report entitled "With Heritage So Rich," led to enactment of the National Historic Preservation Act on October 15, 1966.

The 1966 Act was a major step forward in preservation law. For the first time, it recognized the importance of preserving properties of State and local, as well as national, significance. The House Report (No. 1916) from the Committee on Interior and Insular Affairs stressed the significance of the legislation;

Notwithstanding the progress which has been made with regard to historic preservation, most existing Federal pro-

grams and criteria for preservation are limited to natural and historical properties determined to be "nationally significant." Only a limited number of properties meet this standard. Many others which are worthy of protection because of their historical, architectural, or cultural significance at the community, State or regional level have little protection given to them against the force of the wrecking ball. Some of them are not even known outside a small circle of specialists. It is important that they be brought to light and that attention be focused on their significance whenever proposals are made in, for instance, the urban renewal field or the public roads program or for the construction of Federal projects or of projects under Federal license that may lead to their destruction. Only thus can a meaningful balance be affected between preservation of these important elements of our heritage and new construction to meet the needs of our ever-growing communities and cities.

The 1966 Act directed the Secretary of the Interior to maintain an expanded listing of buildings, sites, districts, structures and objects significant in American history, architecture, archeology and culture—the National Register of Historic Places. It also, for the first time, offered Federal funding assistance to the States and the National Trust for Historic Preservation activities and created the Advisory Council on Historic Preservation to comment on Federal undertakings that would affect historic properties.

In 1971, to provide further guidance for Federal agencies concerning their responsibilities for historic preservation, President Nixon signed Executive Order 11593, entitled "Preservation and Enhancement of the Cultural Environment." This Executive Order directed Federal agencies to adopt measures for identifying and nominating properties in their ownership or control which might be eligible for National Register listing. The order also directed agencies to maintain National Register properties at professionally determined standards, to develop internal procedures for preservation, and to give early consideration in project planning to properties which might be eligible for the National Register.

The 1970's saw a number of other historic preservation measures enacted by the Congress. In 1974, the Archeological and Historical Preservation Act expanded the effect of the 1960 Reservoir Salvage Act by extending the notification and salvage requirements to all Federal, Federally assisted and Federally licensed projects that might cause the loss of significant historical or archeological data. Up to one percent of the total Federal project cost was authorized for recovery of data in such cases.

In 1976, the historic preservation grant program was expanded through creation of the Historic Preservation Fund, authorizing up to \$150 million a year through 1981. Patterned after the successful Land and Water Conservation Fund, the Historic Preservation Fund receives its moneys from revenues derived from offshore oil leasing.

During the 96th Congress, the Archeological Resources Protection Act of 1979 was enacted. The Act requires permits for archeological excavations or collections on the public lands, and provides penalties for theft or destruction of archeological resources on those lands.

HISTORIC PRESERVATION TODAY

Historic preservation, as it is practiced today, incorporates many important national priorities—the need to conserve energy resources, to fight inflation, to revitalize our cities and to provide more opportunities for local employment. Recent studies have shown that historic preservation contributes to greater housing supply, increased tax revenues, new business starts, growth in retail sales, expanded tourism and convention activity, and increased public and private investments.

Throughout the country, adaptive use of historic structures and rehabilitation of historic districts have proved to be not just a source of local pride but a means of helping local economies and saving energy. An example is Quaker Square in Akron, Ohio, where a 19th Century mill was transformed into an award-winning shopping complex and several of the original Quaker Oats silos have been renovated and are now a major hotel. Preservation activities in the historic district of Alexandria, Va. increased sales of restaurants and retail shops in a two block area \$2.8 million in 6 years, a rise of 142 percent or 24 percent annually. The Grand Central Arcade, an adaptive reuse of a hotel in Seattle's Pioneer Square Historic District, required less than one-fifth as much energy for rehabilitation materials and construction activities than would have been needed to produce the materials and build comparable new facilities—a net energy investment advantage over an equivalent new structure for the next two centuries.

First and foremost, however, the goal of historic preservation is to provide the citizens of our nation with an understanding and appreciation of their cultural origins and heritage. It is to foster a long-range perspective of our human use of the land and its resources, of the development of our communities and politics, of our technologies and arts. It is directed toward protection and enhancement of modern remnants of our architectural and engineering traditions—for our immediate appreciation and use—and of the heritage information that is inherent in our prehistoric and historic resources—which serve to tie us to the lessons and achievements of the past.

Historic preservation does not inhibit appropriate development. It is, rather, a partner, one that has proven its effectiveness. The time is now to build on its successes, to learn from its experience.

BACKGROUND OF LEGISLATION

H.R. 5496 is the culmination of nearly five years of study and work on issues affecting historic preservation.

In 1975, the Advisory Council on Historic Preservation prepared an analysis of the status of historic preservation in the United States. Its report, printed in January 1976,¹ reviewed the strengths and weaknesses of existing programs and discussed current problems and alternative approaches to solving those problems. The Council pointed to the need for increased Federal guidance and coordination, and the need for more information concerning historic properties throughout the nation.

¹ "The National Historic Preservation Program Today." Prepared by the Advisory Council on Historic Preservation, at the Request of Henry M. Jackson, Chairman, Committee on Interior and Insular Affairs, United States Senate, 94th Congress, 2d Session, January 1976.

Legislation was introduced in the 95th Congress, similar to H.R. 5496, to strengthen and improve the national historic preservation program.² Although not formally considered by the Committee, the legislation prompted discussion among organizations and individuals concerned about the future of historic preservation.

In 1978, the historic preservation programs of the National Park Service—with the exception of those related to the Service's land management responsibilities—were transferred to the Heritage Conservation Recreation Service, created by Secretarial Order.

Over the past five years, historic preservation has been extensively studied by Congress. In 1977 at the request of the Chairman of this Committee, the General Accounting Office prepared a massive survey of the national historic preservation program. During the 95th Congress, the Committee staff conducted its own oversight review of that program. In 1979 the House Appropriations Committee's Surveys and Investigations staff reported on Federal historic preservation efforts. Finally, at the request of the Interior Committee Chairman, the GAO in 1980 completed a study of implementation of archeological salvage laws at the New Melones Dam project in California and is currently reviewing the entire Federal archeological program.

The Federal agencies involved in historic preservation have themselves examined the program in detail. Notable among these efforts was the Heritage Task Force assembled by the Secretary of the Interior as a result of a directive in President Carter's 1977 Environmental Message for a task force to study and make recommendations concerning the preservation of the nation's heritage resources which led to the Administration's proposal for the National Heritage Policy Act, H.R. 6804. In addition, HCRS began long-range policy reviews and studies of historic preservation programs in 1979. Also in 1979, the Advisory Council on Historic Preservation's Annual Report to the Congress and the President contained a major review of the nationwide program. The National Trust sponsored a major conference to set a preservation agenda for the private sector; its recommendations are included in a report entitled "Preservation: Toward an Ethic in the 1980's."

H.R. 5496 draws heavily from these studies, the problems they identified and the solutions they proposed.

PURPOSE AND NEED

H.R. 5496 amends the National Historic Preservation Act of 1966 to provide better definition and guidance for the national historic preservation program at the Federal, State and local levels. The bill reauthorizes the Historic Preservation Fund through 1987 at its current \$150 million annual level. It provides a role for local governments in the program through certification at the State and Federal level, and specifies Federal agency responsibilities with regard to historic preservation programs. It also revises the structure of the Advisory Council on Historic Preservation.

² H.R. 3602. "A bill to establish a national policy for the preservation of historic, architectural, archeological and cultural resources, to establish a coordinated national historic preservation program, and for other purposes," introduced by Rep. John F. Seiberling, February 16, 1977.

Other sections of the bill also intended to further historic preservation include provisions to ensure proper maintenance of archeological resources, procedures for implementing the World Heritage Convention (approved by the Senate on October 26, 1973), a loan insurance program, establishment of the national museum of the building arts, and studies to provide information on historic preservation matters. The bill does not contain the natural areas provisions contained in related bills considered in this Congress by the Committee.

Following are some of the issues addressed by H.R. 5496:

State programs.—Since enactment of the National Historic Preservation Act of 1966, the State programs have greatly matured, yet their authorities under the Federal legislation have remained minimal. In 1966, there were almost no statewide historic preservation programs; today they are in place in every State and six territories.

The State programs are key to implementation of the 1966 Act. The State Historic Preservation Officer (SHPO), designated by the Governor, is responsible for statewide historic preservation surveys, inventories and plans, for nominations to the National Register and for administration of the grants program within the State. The SHPO also provides many professional services to other Federal, State and local agencies, including review of Federal undertakings for compliance with Section 106 of the National Historic Preservation Act. Each SHPO has the assistance of full-time professional staff and a State historic preservation review board.

Despite the increased responsibilities placed on them, and despite the growth in their professional capabilities and experience, the States have not been treated as the full "partner" in the Federal program, envisioned by the Congress in the 1966 Act. Lacking a statutory base for their programs, the States have been operating under various Federal regulations and subject to changing Administration priorities. H.R. 5496 would remedy this by establishing the basic requirements for an approved State program and by providing more authority to the States for administration of the national program. Matching grants could be provided on a programmatic basis, and notification of grant allocations would be expedited. The intent and scope of regulations to be promulgated by the Secretary of the Interior are clarified, and would be subject to review and possible disapproval by the Congress.

Local programs.—The 1966 Act, while recognizing the need to protect historic properties at the local as well as Federal and State levels, did not provide a specific role for local governments in the national program. In 1966 there were few local ordinances enacted to protect historic properties; today there are over 650. These historic preservation responsibilities, activities and expertise of local governments have grown tremendously, yet there remains no formal participation mechanism for them in the Federal-State program.

While H.R. 5496 retains the Federal-State partnership established by the 1966 Act, including responsibility for the State to administer, within the State, the Federal program pursuant to this Act, H.R. 5496 also establishes a process by which local governments could be certified by the State if they meet certain minimum standards. Once certified, the local governments will be included in the process of reviewing applications for nominations to the National Register and will share at least ten percent of the State's allocation from the Historic Preserva-

tion Fund. All local governments, regardless of certification, would have the opportunity to participate in actions taken by the Advisory Council on Historic Preservation with respect to Federal undertakings that affect those local governments.

Federal programs.—Although Executive Order 11593 was intended to provide guidance and direction for Federal agencies in implementing the National Historic Preservation Act of 1966, not all agencies have fully implemented the order, and certain provisions need clarification. For example, the 1973 deadline for the completion of Federal surveys given in Section 2(a) of the Executive Order has led to some confusion among Federal agencies concerning their continuing responsibility to survey, inventory and nominate historic properties to the National Register after that date. Also unclear are Federal agency responsibilities for preserving Federally owned or controlled historic properties; standards for documentation, mitigation and curation; relationships with and among the State Historic Preservation Officers, Secretary of the Interior and the Advisory Council on Historic Preservation; and authorities for the use of funds to preserve historic resources.

H.R. 5496 provides clear direction to Federal agencies for the basic requirements that must be met under the National Historic Preservation Act. It provides only minimal modification in the agency responsibilities as required by other laws, Executive Orders, or regulations, and does not limit the President's authority to specify additional responsibilities.

Private sector.—The success of historic preservation has always depended on the initiative and drive of the private sector. This was noted in the findings of the 1966 Act that "the major burdens of historic preservation have been borne and major efforts initiated by private agencies and individuals."

Since 1966, there has been a profusion of preservation organizations in towns and cities of all sizes. The nation's Bicentennial celebration in 1976 focused increased attention on the need to preserve our cultural heritage for future generations. The National Trust for Historic Preservation has seen its membership grow to 170,000 members; current estimates are that over 2 million Americans are supporting preservation interests through organizational memberships.

An increasing number of citizens have invested both dollars and "sweat equity" in the preservation and rehabilitation of deteriorated properties in areas of towns and cities that were once characterized as "blighted and undesirable." Some have successfully funded such projects through the packaging of Federal programs enacted to stimulate private investment in community development. Many have been hampered by the severe limitation of available grants programs, the denial of tax benefits for residential rehabilitation, and the inability to obtain loans for both acquisition and improvement of historic properties.

H.R. 5496 recognizes the importance of the non-governmental role in the national historic preservation program within many provisions of the legislation. The clarification of Federal and State relationships and responsibilities will assure greater uniformity of programs throughout the nation. The provisions permitting increased involvement of local government in the program offers new opportunities for preservation at the local level. These provisions and others requiring

greater public participation, will create new responsibilities for local nonprofit organizations to offer their assistance and expertise in the implementation of State and local programs.

The bill also offers a number of other provisions that will encourage preservation activities in the private sector. An insured loan program will be established specifically to stimulate private investments in the preservation of properties included on the National Register. Programmatic grants to the States, in addition to direct project-by-project grants, will make it easier for private organizations and individuals to obtain grants. Information and training programs will be available for private organizations and individuals, as well as to Federal, State and local government agencies. Studies will be done to consider ways to further assist historic preservation including studies to develop means of identifying and conserving America's folk heritage; to examine the effects of the tax laws on historic preservation; to review the operations of the national program and the Historic Preservation Fund, to make recommendations concerning urban cultural parks and historic conservation districts; and to examine the correlation, if any, between Federal and State laws and arson or fire "by suspicious origin" in historic properties.

Other concerns.—H.R. 5496 addresses a number of other concerns with the national historic preservation program, particularly relating to the National Register of Historic Places and to the Historic Preservation Fund. While leaving the basic existing program intact, the bill provides further clarification and direction for the program in response to identified problems and needs. These are explained in more detail in the Section-by-Section Analysis.

SECTION-BY-SECTION ANALYSIS

Section 1 states that the bill may be cited as the "National Historic Preservation Act Amendments of 1980."

TITLE I—FINDINGS AND POLICY

Title I provides a short title for the Act of October 15, 1966, the "National Historic Preservation Act," and adds a number of new findings and a statement of policy to that Act. Thus, it reaffirms that historic preservation is an important and continuing responsibility of the Federal Government, in cooperation with other nations, the States, local governments, Indian tribes and Native groups, and private organizations and individuals.

TITLE II

Title II provides reauthorization and direction for the Federal, State and local historic preservation programs.

Section 201 amends Section 101 of the National Historic Preservation Act as follows.

Subsection 101(a)(1) reauthorizes the Secretary of the Interior's responsibility to expand and maintain the National Register of Historic Places which, as under the 1966 Act, is intended to include properties of States and local, as well as national, historic significance. All historic properties included on the National Register on the date of

enactment of the Act will remain on the Register unless subsequently removed. All historic properties listed as National Historic Landmarks in the February 9, 1979 Federal Register and those listed before enactment of this Act would also retain their designation. However, in the cases of National Historic Landmark districts for which no boundaries have been established, boundaries must first be published in the Federal Register and submitted to the authorizing committees of Congress.

The purpose of this subsection is to assure the continued validity of all historic properties included on the National Register and all historic properties designated as National Historic Landmarks, whether they are individual monuments or districts and whether they were designated under the Historic Sites Act of 1935 or under the National Historic Preservation Act of 1966. By grandfathering in the properties presently included on the National Register or designated as National Historic Landmarks, the Committee recognizes that some properties may have lost the historic qualities for which they were included or designated. Hence, under the regulations in this Section, the Secretary may remove properties from the National Register or may remove the National Historic Landmark designation.

Subsection 101(a)(2) directs the Secretary to establish or revise the criteria for properties to be included in the National Register and also criteria for National Historic Landmarks. The Committee does not intend by these provisions that the Secretary should necessarily expand the existing criteria but rather that the criteria should be reviewed and revised when that is necessary. The present criteria appear adequate.³ However, concerns were raised about the application of the criteria, and whether the criteria in some instances were being applied too narrowly or too broadly. Clearly, professional judgments are involved, and these may vary among professionals themselves; however, the Committee expects the Secretary to provide sufficient guidance under the regulatory procedures required by this Act, to assure the uniform application of professional evaluation standards at the Federal, State, and local levels.

Paragraph (2) further directs the Secretary to promulgate or revise regulations as may be necessary for procedures for nominations to, and removals from, the National Register; for obtaining the consent of property owners; for designating properties as National Historic Landmarks and for removing such designation; for considering appeals; for nominating historic properties to the World Heritage list; for making determinations of eligibility for the National Register; and for notifications of property owners, appropriate local governments and the general public.

The Committee recognizes that the new requirement for regulations for owner notification and concurrence before properties may be in-

³ Criteria for National Register, as specified in 36 CFR 12.6: "The quality of significance in American history, architecture, archeology, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

- a. that are associated with events that have made a significant contribution to the broad patterns of our history; or
- b. that are associated with the lives of persons significant in our past; or
- c. that embody the distinctive characteristics of a type, period, or method of construction, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- d. that have yielded, or may be likely to yield, information important in prehistory or history."

cluded on the National Register or designated as National Historic Landmarks may present administrative difficulties, particularly for the State Historic Preservation Officers. There are, for example, problems with multiple ownerships of individual buildings, the volume of ownerships in historic districts, multiple ownerships where surface and mineral rights are owned separately, and absentee owners. By providing for regulations to implement the requirements of paragraph (6), there should be adequate flexibility to address the various situations that might arise. In drafting the regulations, the Secretary should consult with the Committee to assure that the intent of this provision is carried out.

Paragraph (3) provides that properties nominated by Federal agencies and by States with approved State programs will be included on the National Register 45 days after the Secretary receives the nomination and the necessary documentation unless the Secretary disapproves such nomination or an appeal is filed. The purpose of this provision is to assure that there are no unnecessary delays in processing the nominations. If the procedures for making nominations have been properly followed, and if the documentation is sufficient, the Secretary should be able to approve the nomination without a substantive review. The Secretary should, however, review particular nominations on a spot-check basis, or as otherwise necessary, to insure the integrity of the program.

Paragraph (4) provides for nominations to the National Register by any person or local government when there is no approved State program. The time frame for the Secretary to approve the nomination has been extended to 90 days, as it is expected that the Secretary will substantively review each such nomination.

Paragraph (5) permits any person or local government to appeal a nomination to the National Register or designation as a National Historic Landmark, or the failure or refusal of a nominating authority to make a nomination or designation. The Secretary is expected to expedite consideration of appeals where the appeal itself might cause an undue delay in a project, or otherwise present a hardship.

Paragraph (6) prohibits the Secretary from including any non-Federal property on the National Register unless the nomination is accompanied by a statement in writing from the nominating authority that the owner concurs to the inclusion. In the case of designations of National Historic Landmarks, the owner's consent itself must be in writing. In the case of historic districts, only majority concurrence is required.

The Committee recognizes that listing on the National Register does not, under this Act or under the 1966 Act, restrict in any way what a private property owner can do with his or her property. The Committee also recognizes, however, that other State and local laws for the protection of historic properties could be triggered automatically by National Register listings. The Committee does not intend, by adopting the so-called "owner consent" provisions, to affect State or local laws nor to encourage such owner consent provisions at the State or local level. Indeed, it is at the State and local levels of government, which have the police powers of zoning and other related regulatory tools, where more protective controls are appropriate.

The National Register is not intended to be in itself the sole means of protecting historic properties nor is it meant to be simply an "honor

roll." Rather, it is a planning tool that helps identify those properties which should be considered in Federal planning decisions, and it is a mechanism for identifying those properties which may receive certain Federal assistance.

The Committee notes that owner consent is not required for determinations of Register eligibility necessary for the review of Federal undertakings by the Advisory Council on Historic Preservation. These determinations should be based solely on the professional evaluations of eligibility, to insure that historic resources are given proper consideration in Federal decision-making. In this regard, the State and local inventories, and not just the National Register, comprise the basic data base of historic resources throughout the nation. They are the basic source of information for evaluations of significant historic properties for agency planning and management at the Federal as well as the State and local levels. The Committee did not require owner consent prior to a property's initial consideration or professional evaluation by the States or certified local governments. Nor is the owner's consent required for the State or local inventories under this Act.

Furthermore, the Committee, as noted earlier, intends for the regulations required under this section to provide sufficient flexibility to assure that the intent of paragraph (6) is met while not placing undue administrative burdens on the National Register process.

Lastly, the Committee notes that the provisions for owner notification and consent do not apply to properties included on the National Register, or designated as National Historic Landmarks, on or before the date of enactment of this Act. (There are presently over 21,000 National Register properties, and 1,555 National Historic Landmarks.) In addition, H.R. 5496 provides many incentives for properties to be listed on the National Register. For example, the grants and insured loans available under this Act would be available only for the preservation of National Register properties.

It is doubtful that in the future many owners would object to having their properties included on the National Register; those that do, however, should be given that opportunity at the time of nomination.

Section 101a(7) (A) and (B) direct the Secretary to promulgate regulations to ensure that significant prehistoric and historic artifacts and associated records resulting from various Federal activities are deposited in institutions with adequate long-term curatorial capabilities. Regulations are also required to assure establishment of a uniform process and standards for documenting historic properties to be incorporated into or to complement, the national historical architectural and engineering records in the Library of Congress.

Paragraph 7(A) is intended to ensure that historic resource artifacts and associated records (including geological and biotic samples from archeological sites, as well as historical architectural and engineering records) collected pursuant to Federal recovery requirements be appropriately curated. Such curation is to be adequate to preserve the collected data and objects for future research and for the development of public interpretive programs. The relevant Federal requirements are set forth in Section 110(b) of this Act and in the Act of June 27, 1960, both of which state that Federal agencies must recover historic and archeological data (records) and specimens that are to be destroyed

by any Federal undertaking or by natural deterioration of Federal resources. The requirements are also outlined in the Archaeological Resources Protection Act of 1979, which provides in Section 5 for permitting of non-Federal excavation of Federal historic properties with appropriate disposition of the excavated artifacts.

Paragraph 7(B) is intended to ensure that Federal documentation of information about historic properties—gathered either in the process of initial description and evaluation of significance, or during a data recovery program—is conducted in a comparable manner by different investigators. Thus, the Secretary of the Interior is directed to promulgate regulations so that descriptions of historic structures, whether made by agency professionals or by non-agency experts under contract, will be to the basic standards established for the Historic American Buildings Survey and the Historic American Engineering Record and housed within the National Architectural and Engineering Record of the Library of Congress. In complement, archeological and historic records collected during Federal identification and evaluation, recovery, or permitted research investigations should also conform to uniform national standards, for curation and future reference within repositories such as the Library of Congress or the National Anthropological Archives of the Smithsonian Institution, and for appropriate dissemination by the National Technical Information Services (NTIS) of the Department of Commerce.

Paragraph 7(C) requires regulations to be promulgated for the certification of local governments for participation and funding under this Act. The purpose is to ensure that the procedures and requirements for certification are uniform, while providing flexibility to meet the differing needs of various communities throughout the country.

Section 101(b) establishes the basic requirements for approval of State historic preservation programs, including the responsibilities of the State Historic Preservation Officers. It also provides for periodic evaluation of the State programs, authorizes States to carry out their responsibilities by contract or cooperative agreements, and grandfathers in existing State programs for up to three years after the date of enactment of this Act.

The purpose of this subsection is to clarify and reinforce the relationship and respective responsibilities of the Federal and State programs. States which meet the minimum requirements for the program, including the duties listed for the State Historic Preservation Officers and establishment of a mechanism to certify local governments, would be given more authority for administering the historic preservation programs within their States. Highly detailed annual work programs would no longer be necessary. Instead, periodic evaluations would be conducted to evaluate performance and assure continued compliance with the basic requirements of the Act. The evaluation may be supplemented by annual updates and revisions of the States' comprehensive historic preservation plans to indicate current needs, problems and accomplishments. This information would be useful to the Secretary for budgetary and planning purposes and for providing information to the Congress on the national historic preservation program.

The Committee was concerned to learn that the Department of the Interior has imposed a number of non-preservation priorities on the States as a condition for receiving grants from the Historic Preserva-

tion Fund. The Committee does intend that the States will, in managing their programs, comply with other applicable Federal laws and regulations in a positive manner. However, the Committee also feels that this is best done through affirmative management, and not through an arbitrary point list imposed as a condition for receiving grants.

The Committee also notes that the role of the State Historic Preservation Officer is a particularly important one, as the officer must participate actively in the various planning and development processes that shape projects and programs affecting historic properties, especially those in the governmental sector. At the Federal level, these include the A-95 review process and other environmental reviews carried out by Federal agencies under the National Historic Preservation Act and the National Environmental Policy Act. Paragraph (3) both prescribes the responsibilities of the State Historic Preservation Officer and also permits the Officer flexibility in operating the program.

Section 101(c) requires States with approved programs to provide a mechanism for the certification of local governments to participate in the historic preservation program and to receive funds for local historic preservation programs as well as projects. To qualify, a local government must have certain legal and administrative capabilities in the area of historic preservation. Although participation in the National Register nomination process is the only responsibility specified in this section, additional responsibilities may be delegated by the Secretary or the State.

Some concern was expressed over the provisions in this section that might allow a certified local government to "veto" a National Register nomination on grounds other than objective, professional evaluation of a property's historic significance. The Committee notes, however, that the so-called "veto" provisions apply only where *both* the chief local elected official and the local historic preservation commission concur that a property should not be nominated. The local preservation commission is, moreover, expected to include individuals experienced and knowledgeable in the field of historic preservation who are able to make objective evaluations concerning the property's historic significance. Should the local government's veto be appealed, the State would follow the usual procedures for considering nominations, in accordance with the Secretary's regulations. It should also be noted that the "veto" provisions do not apply to determinations of eligibility for the purpose of reviewing under Section 106 the Federal undertakings; these would continue to be based exclusively on the objective application of professionally established criteria of historic significance.

Section 101(d) continues the existing separate matching grants program for the States and for the National Trust for Historic Preservation. The Committee intends that the matching requirements for these grants will apply in the same manner to both the States and the National Trust. In support of its charter to facilitate public participation in the preservation of historic properties, the National Trust is encouraged to cooperate with Federal agencies and organizations with preservation interests (e.g., Smithsonian Institution, Archaeological Institute of America, National Museum of the Building Arts, National Park Service) and other professional and lay organizations with substantial interests and expertise in historic preservation.

This section also provides for up to ten percent of the Historic Preservation Fund to be used for direct grants by the Secretary. This new grant program is intended to be in lieu of the discretionary funds previously used by the Secretary but never specifically authorized by the Committee. While paragraph (3) provides specific direction for the types of projects and programs that may be funded, the Secretary is given flexibility as to the size, terms, and conditions for the grants, and the percentage of matching funds, if any, that may be required. The definition of "preservation" in this Act provides sufficient flexibility to assure that documentation and information about historic properties are also appropriate for purposes of these grants, both for archeological sites as well as for historically significant architectural and engineering properties. Thus, for example, grants for the protection of National Historic Landmarks and World Heritage properties could include preservation of information from properties subject to irreversible natural deterioration, uncontrollable vandalism, or demolition. Demonstration and training projects could relate to the full range of preservation concerns, including history, historic architecture and engineering, and prehistoric and historic archeology—from carpenters and plasterers who can do proper restoration, to laboratory technicians who can analyze prehistoric artifacts.

The Committee took particular note of the problems that may arise with the creation of historic districts, especially with regard to the displacement of existing residents and small businesses, and agreed that some direct assistance is appropriate. However, the problems are of such magnitude that it is doubtful that the Secretary's direct grant program would be adequate to handle all such problems without placing a severe strain on moneys available in the Historic Preservation Fund. Therefore, the Committee intends that such grants only be made if other assistance (including assistance available under the insured loan program established by this Act) would not be available or be fully effective.

In addition, paragraph (3) (B) authorizes direct grants to Indian tribes and nonprofit organizations that represent ethnic or minority groups for the preservation of their cultural heritage. This is a discretionary program which would assist a broad range of groups and activities—for example, for Native Americans to maintain and foster understanding of their traditional subsistence techniques; for women of all backgrounds to identify and interpret their achievements and contributions; for the people of the insular areas to recognize and conserve their diverse cultural patterns; and for Americans of immigrant background (e.g., Black, Hispanic, European, Asian) to continue their inherited customs and ties within their communities. Activities could include training, studies, oral histories, replications and simulations, documentation and interpretive materials, and other means to retain and enhance the information and values that are part of the nation's historic fabric but which are not necessarily explicitly embodied in the built environment.

Section 101(e) prohibits the use of historic preservation grants authorized by the Act as compensation for any persons intervening in any proceeding under this Act.

Section 101(f) directs the Secretary, in consultation with the Advisory Council on Historic Preservation, to promulgate guidelines for

Federal agency responsibilities for historic preservation. These guidelines should provide Federal agencies reasonable flexibility in accomplishing their historic preservation directives, and assure that such preservation activities are uniform and consistent with the purposes of this Act as well as with the agency's own missions and mandates.

Section 101(g) requires the use of professional standards for the preservation of historic properties in Federal ownership or control. The Smithsonian Institution is specified as an appropriate partner in such preservation because of its special expertise in the curation of archeological and other anthropological materials. The Secretaries of Agriculture and Defense are also named because, next to the Secretary of the Interior, they manage the largest Federally owned land resource base and have major programs affecting historic preservation throughout the country.

Section 101(h) directs the Secretary to develop training programs in, and information concerning, professional methods and techniques for the preservation of historic properties and for the administration of the historic preservation program at the Federal, State and local levels. These programs will ensure that the widest possible audience has access to information, education and training regarding historic preservation. While the historic preservation program recently has made great strides in protecting and preserving historic resources, the Committee is also concerned with ensuring that the general public receives the benefit of a shared knowledge of our rich prehistoric and historic traditions.

In addition, the Secretary will develop a professional program to assure that those who administer preservation programs at various levels of government have sufficient information on and training in the administrative and legal aspects of their programs. In developing this professional program, the Secretary is expected to coordinate with the Advisory Council to ensure the professional adequacy of programs that relate to Federal undertakings affecting historic properties.

Section 202 amends Section 102(a) of the National Historic Preservation Act of 1966 to allow the Secretary to approve matching grants to States on a total annual program basis. Within States with no approved State program, the Secretary may continue approving matching grants on a project-by-project basis.

The purpose of this section is to remedy the current restrictive interpretation placed upon the term "project" as defined in the 1966 Act. Because of this definition, it was administratively determined that within any State program each project grant must be individually matched on a 50-50 basis, so that each grant provided no more than fifty percent of the total costs of any specific project. Thus, only those sponsors who could afford the full matching share could obtain Fund assistance, even though the total matching contribution documented in support of an annual aggregate State program was equivalent to or in excess of a fifty percent match as required by law. Unintentionally, the project-by-project interpretation of the 1966 Act has had a disproportionate adverse effect upon eligible property owners with lower fixed incomes or limited means, who are often people of racial or ethnic minorities, women, or the elderly. In addition, it disallowed the significant matching capabilities that States could document in the aggre-

gate, which would provide the necessary support for the sponsors with more limited means.

The Committee has deleted the definition of "project" with these amendments, intending that this section be interpreted broadly. Thus, each State may choose to allocate or aggregate its matching annual share contributed by many individual historic preservation projects and programs within the State, so long as the total expenditures during any fiscal year are within the percentage requirements established by this section, and so long as such expenditures are in the context of the State's comprehensive historic preservation plan.

This section also directs the Secretary to provide, within each State grant, seventy percent funding for historic property survey and inventory. This provision removes the discretionary authority for these purposes, as provided in the amended 1966 Act. It is crucial that such surveys and inventories be accelerated and substantially completed as soon as is feasible, so that the full historic resource base can be taken into account at the earliest possible stage of project planning and thus adverse project effects can be avoided or minimized. It is intended that States not lower their total current financial matching commitment as a result of this provision.

Finally, this section specifies that no grant made pursuant to this Act shall be treated as taxable Federal income.

The Committee deleted restrictions set forth in the original version of H.R. 5496 that would have prohibited the use of more than fifteen percent of any State grant for the improvement of government buildings that continue to be used for governmental purposes. Also deleted from the earlier versions of the bill was the restriction that no project grant made in any one fiscal year for the preservation of a single property within an historic district could exceed \$50,000. Under the State program authorized by this Act, the States are given the flexibility to determine the appropriate size and percentage of funds allocated to individual projects.

Section 203 amends Section 103 of the National Historic Preservation Act. Subsection (a) further clarifies the intention that the amounts available to States under this Act would be for programs as well as for projects. It also requires the Secretary to notify each State of its annual apportionment within 30 days following enactment of the appropriations legislation. A new section 103(c) would provide that a minimum of ten percent of each State's share of the Historic Preservation Fund be transferred to in-State certified local governments. In addition, a new section 103(d) would require the Secretary to establish guidelines to ensure that no local government receives a disproportionate share of funds available, and perhaps to limit the amount of funds distributed to any single local government.

Finally, the Committee deleted from the subcommittee's approved version of H.R. 5496 provisions that would have provided automatic transfer of State funds to local governments that were "making efforts to become" certified. Local governments not certified may receive funds under the usual State grant procedures, but without certification may not participate in the guaranteed ten percent pass-through. By deleting the earlier provision, the Committee feels that the local governments will have more incentive to become fully certi-

fied, and avoid any ambiguity about the definition of "making efforts" toward certification.

Section 204 amends Section 104 of the National Historic Preservation Act and directs the Secretary under paragraph (a) to establish and maintain a loan insurance program for the preservation of historic properties included on the National Register. The purpose is to assist and stimulate private investments by giving lenders more incentive to lend money for preservation projects.

For a variety of reasons, historic properties are often viewed as a "high risk" investment. Historic districts in older urban neighborhoods may contain dilapidated structures that appear economically marginal to restore and reuse, although the structures themselves contribute to the historic character of the neighborhood. Lower income residents and small business owners in historic districts often cannot qualify for loans to enable them to remain in the district. Homeowners may be unable to obtain second mortgages to renovate their houses. Non-profit organizations interested in saving historic structures may have difficulty qualifying for loans or amassing a sufficient down payment to obtain the loans; renters in apartment buildings undergoing conversion to condominiums or cooperatives may have similar difficulties. Unusual types of activities may be viewed as too risky to private lenders—examples include acquisition of remote archeological sites, restoration of historic ships and other vessels, and rehabilitation of old structures (such as theatres and warehouses) for use as non-commercial community centers.

It is anticipated that most of the loans insured pursuant to this Act would be for acquisition and development projects, although other types of preservation activities might also qualify. The insured loans program should add flexibility to existing funding mechanisms for preserving historic properties. Loans could, for example, bridge the gap between initiation of a grant-funded project and final reimbursement. The loans could be for substantially higher amounts than is possible under the grants program. Also loans, which are repayable, could be used to match grants, which are not.

It is also expected that the Secretary will be reasonable in setting requirements on the lenders. Clearly banks, savings and loans and other traditional mortgaging and lending institutions could qualify. A number of other lenders—such as neighborhood development corporations and non-profit organizations—may also qualify; indeed, the insured loans program may be viewed as a means of initiating or supporting such efforts to establish or maintain programs to make loans (including revolving loans) for the preservation of historic properties.

Section 104(b) establishes the conditions under which a loan may be insured. This will provide the Secretary with the flexibility to deal with the various issues and concerns that might arise. It is assumed that the Secretary will be reasonable in setting requirements for lenders and borrowers, while still requiring qualifying projects to meet the Secretary's standards for preservation of historic properties. It is important, for example, that the Secretary not set ceilings on rates and amounts of loans too low—the rates should be at the market rates, such as New York Prime. In determining the ceiling, the Secretary is to consult with the Secretary of the Treasury. It is expected that a condition for the loan insurance would be a commitment by the lender and

the borrower, commensurate with the amount of assistance received, to ensure the continued maintenance and protection of the historic property and the qualities which made it eligible for inclusion on the National Register.

Section 104(c) sets the authorization ceiling on the total amount of the unpaid principal balance of the insured loans—approximately \$370 million as of September 30, 1980, the date this Act was approved by the Committee. Although no additional appropriations are necessary, since insured loans do not entail an initial Federal outlay, it is expected that the Secretary will provide timely reports on the program to the authorizing and appropriations committees of the Congress.

Section 104(d) provides that the insured loans may be assignable. Although under subsection (k) the Secretary is prohibited from selling any insured loan to the Federal Financing Bank, the lenders may sell them to a secondary market. In addition, the insured loan would be supported by the full faith and credit of the United States, and incontestable except for knowing fraud or misrepresentation.

Section 104(e) directs the Secretary to specify, both by rule and in each contract, the conditions and method of payment to the lender as a result of losses incurred by the lender. The Secretary could, for example, specify payment by cash or debentures.

Section 104(f) directs the Secretary to take certain steps to protect the financial interests of the Federal Government, including obtaining the property and operating or leasing it until it is conveyed.

Section 104(g) requires the Secretary, when a property has been obtained, through foreclosure, to attempt to convey the property under conditions that will ensure its continued preservation and use. The method of conveyance may include sale (including sale at less than fair market value) donation, exchange, or other form of transfer; the conditions may include covenants, enforceable agreements, easements, etc. If the Secretary is unable to convey the property, he may, in consultation with the Advisory Council on Historic Preservation, convey the property at fair market value to any entity without restriction.

Section 104(h) authorizes the Secretary to assess appropriate and reasonable fees in connection with insuring loans. Such fees, and any additional fees required by the Secretary or the lender to provide services for the loan, may be passed on to the borrower and should not be part of the interest rate of the loan itself.

Section 104(i) provides that the insured loans would be treated as non-Federal funds for the purposes of matching other Federal grants or for use on any project where the use of non-Federal funds is a condition of the project.

Section 104(j) provides authorization for appropriations to cover any payment required as a result of a default. The Secretary is expected to provide, in the annual budget request to the Congress, an estimated request for amounts needed to cover these payments in the next fiscal year; any necessary additional amounts should be included in any request for supplemental appropriations.

Section 104(k) prohibits the Secretary from selling or otherwise conveying any of the insured loans to the Federal Financing Bank.

In addition to establishing an insured loan program, Section 104 supercedes an existing section 104 which restricted the use of Historic

Preservation Fund grants in conjunction with other Federal assistance. The Committee believes it is desirable to be able to use Historic Preservation Fund grants in conjunction with other Federal funding or permitting assistance, so long as the Federal share does not exceed mandated matching requirements except as otherwise authorized by law (e.g., Community Development Block Grants). It is highly desirable to have Federal agencies working cooperatively on projects that achieve multiple agency missions; historic preservation activities particularly lend themselves to these kinds of cooperative efforts. It is also desirable to encourage private support of preservation survey, evaluation or impact mitigation activities conducted as part of Federal permitting requirements, by allowing use of these private investments as part of the non-Federal match share.

Section 205 amends Section 108 of the National Historic Preservation Act to extend the Historic Preservation Fund from 1981 to 1987 at its currently authorized annual level of \$150 million.

Section 206 amends Title I of the National Historic Preservation Act by adding a new Section 110 at the end.

The new Section 110 clarifies and codifies the minimum responsibilities expected of Federal agencies in carrying out the purposes of this Act, in accordance with guidelines to be established by the Secretary and the Advisory Council on Historic Preservation. It is not intended to change the preservation responsibilities of Federal agencies as required by any other laws, executive orders or regulations, nor limit the President's authority to specify additional responsibilities.

Section 110(a) (1) requires a Federal agency to assume preservation responsibilities for properties owned or under the control of the agency. It is intended that the degree of preservation responsibility be commensurate with the extent of the agency's interest in or control of a particular property. The section also directs agencies to use historic properties to the maximum extent feasible before acquiring, constructing or leasing buildings to carry out agency responsibilities. Agencies are further directed to undertake such preservation as may be necessary (including rehabilitation, documentation, etc.) in accordance with the Secretary's standards.

Section 110(a) (2) requires each Federal agency to establish an affirmative program to locate, describe and evaluate all historic properties under its ownership or control. Those properties that appear to be eligible for nomination to the National Register should be so nominated. Until such time as all the inventories, evaluations, and nominations are completed, the agency is directed to exercise caution so that any currently uninventoried historic resources or any identified resources for which evaluation or nomination has not been completed, are not adversely impacted or inadvertently transferred, sold, demolished, substantially altered or allowed to deteriorate significantly. Identified properties should be considered eligible for inclusion on the National Register until determined otherwise, and they should be managed accordingly. If such a property is to be transferred, sold, demolished, substantially altered or allowed to deteriorate, then the responsible Federal agency should promptly initiate the review procedures of Section 106.

Section 110(b) directs Federal agencies to protect the information values of historic properties that are to be substantially altered or

demolished as a result of agency action or assistance. This protection is provided by the recordation of the significant historic information about the property, including its architectural plans and features, or its relevant engineering or landscaping details. It could involve the acquisition of significant oral historical information about the property, or the excavation of architectural or archeological materials and features in order to develop the needed information base for future scientific or humanistic study and development of public interpretive values. Architectural and engineering records should be developed to the standards for the national architectural and engineering records and deposited in the Library of Congress. Archeological or oral historical records may be more appropriately deposited with the National Anthropological Archives of the Smithsonian Institution, the American Folklife Center of the Library of Congress, or with a regional repository. Technical reports that include substantial historic property information records should also be deposited with the National Technical Information Service (NTIS) of the Department of Commerce.

Section 110(c) requires Federal agencies, unless otherwise exempted to have designated, qualified preservation officers to coordinate the agencies activities under this Act. The officer may have other agency duties in addition to historic preservation coordination, depending on the magnitude and degree of the agency's historic preservation activities and responsibilities. Although the Committee deleted a mandatory requirement in the original bill for preservation officers to be appointed at the regional or field level, it is expected that such officers will be appointed, where appropriate, particularly in agencies where major authorities have been delegated to the regional or field levels. It is also expected that the preservation officer will be supported by adequate professional staff, as needed. For example, if the designated preservation officer does not have specific training in archeology, history, historic architecture and engineering, or legal or administrative training related to these disciplines, he or she may not be considered to be adequately qualified until after successfully completing an appropriate training program provided by the Secretary. Continued training in the management and administration of historic preservation programs is encouraged.

Section 110(d) requires that, consistent with their missions and mandates, all Federal agencies will carry out their programs (including both direct land managing and more indirect permitting or assistance programs) so that historic preservation interests are affirmatively addressed. Many projects and programs, while directly addressing other issues and concerns, may make direct or indirect contributions to historic preservation; the Housing and Community Development programs in the Department of Housing and Urban Development are good examples of this. It is recognized that most Federal agencies have a primary purpose other than historic preservation; however, it is reasonable to expect that they also view themselves as multiple resource managers responding to diverse economic, social and environmental concerns—including the concerns of historic preservation.

Section 110(e) requires that when surplus Federally owned historic properties are transferred within or outside the Federal Government, the Secretary will review and approve the future management plans

for those properties to ensure that their historic values will be preserved or enhanced. Such review is to be conducted in complement or subsequent to the Advisory Council on Historic Preservation's review under Section 106 of the transfer proposal.

Section 110(f) establishes a higher standard of care to be exercised by Federal agencies when considering undertakings that may directly and adversely affect National Historic Landmarks. Agencies are directed to undertake, to the maximum extent possible, such planning and actions as may be necessary to minimize harm to such a landmark, and to provide the Advisory Council on Historic Preservation a reasonable opportunity to comment on such proposed actions. Although the Committee deleted a mandatory requirement that an agency first determine that "no prudent and feasible alternative to such undertaking exists," the Committee does intend for agencies to consider prudent and feasible alternatives. This section does not supercede Section 106, but complements it by setting a higher standard for agency planning in relationship to landmarks before the agency brings the matter to the Council. The Committee expects the Council, in its implementing procedures for this section, to provide clear guidelines to the agencies, including provisions for a sequential application of this section and Section 106, when National Historic Landmarks are affected by Federal undertakings.

Section 110(g) directs Federal agencies to include the costs of preservation activities as eligible project costs in all agency undertakings. The intent is to ensure that historic preservation activities may be eligible for agency support. It is not to be construed as otherwise conflicting with the cost-benefit ratio determined by the agency for a specific project. Where preservation activity is a condition of obtaining a Federal license or permit, the licensee/permittee may be charged for reasonable preservation costs. It is expected that the term "reasonable" will be interpreted to mean at a rate commensurate with the extent of the licensee's or permittee's interest in or benefit from the undertaking that impacts the historic properties.

Section 110(h) requires the Secretary to establish an annual awards program to cite employees of Federal, State and certified local governments who make outstanding contributions to the preservation of historic resources; these would include employees in both the legislative and executive branches of government. They are often the "unsung heroes" whose achievements are extremely important to the success of the program but who otherwise go unrecognized and unappreciated. In addition, the program may include an annual Presidential award to any citizen of the United States recommended by the Secretary. The Presidential award may go to Federal, State, or local government employees as well as to private citizens.

Section 110(i) ensures that nothing in this Act will be construed to require an environmental impact statement (pursuant to the National Environmental Policy Act of 1969) where it is not otherwise required, nor to serve as an exemption from one if it should otherwise be required.

Section 110(j) requires the Secretary to promulgate regulations under which the requirements of this section may be waived, either in whole or in part, in the event of a major natural disaster or imminent threat to national security. The intent is that such a whole or partial

waiver will be allowed only in extreme circumstances, after due consideration of any measures that may feasibly be taken to preserve the historic properties within the threatened area or disaster zone.

Section 207 amends Title I of the National Historic Preservation Act by adding a new section 111.

Section 111(a) authorizes Federal agencies to lease or exchange any agency-owned property in order to ensure the preservation of an historic property. For example, an agency might exchange a non-historic property with a non-Federally owned historic property if the exchange would serve to ensure the continued preservation of the historic values. In addition, the agency might exchange a non-historic property for an historic property in order to complement the preservation or interpretation of other agency-owned historic properties. The leasing provisions are included so that agencies that wish to maintain ownership of an historic property may assure its continued preservation without the need for direct agency use.

Section 111(b) provides that the proceeds from any lease of an historic property may be retained by the agency and used to defray the costs of administering, maintaining, repairing and otherwise preserving the property or other agency-owned historic properties included on the National Register. Any surplus leasing proceeds are to be deposited in the U.S. Treasury at the end of the second fiscal year following the fiscal year in which they were received. The lease may be for less than the fair market value, so long as the lessee agrees to conditions that would assure the continued preservation of the property; this should provide flexibility to some Federal agencies—such as the Department of the Army, the National Park Service, the U.S. Coast Guard, and others—who own historic properties which are not needed for agency use but, because of the requirements of this Act, are responsible for the continued preservation of those properties.

Section 111(c) authorizes any Federal agency responsible for managing historic properties to enter into contracts for the management of those properties.

All of the provisions of Section 111 require agencies to consult with the Advisory Council on Historic Preservation to ensure that all the relevant historic preservation aspects are considered and dealt with in a careful manner.

Section 208 provides guidance to Federal agencies in allocating the costs of historic preservation surveys, identification, evaluation and data recovery pursuant to this Act, notwithstanding Section 7(a) of the Act of June 27, 1960 or any other provisions of law. Item (1) was originally drafted as a mandatory requirement that Federal agencies treat identification, survey and evaluation as a planning rather than mitigation cost. However, it was restated to provide discretionary guidance. The Committee understands that these activities are frequently conducted in support of planning other undertakings that serve more primary agency missions. Hence, only data recovery support should be treated as a mitigation cost when figuring total project costs or cost-benefit ratios in evaluations of net economic development. In addition, agencies are encouraged to consider the economic benefits of historic preservation and data recovery in such net economic development evaluations—taking into account factors such as increased local

payrolls and tourism as dollar benefits from many archeological mitigation projects and historic preservation programs.

Item (2) provides Federal agencies the discretion to charge licensees and permittees, as a condition of a Federal license or permit, the costs of identification, survey, evaluation, and data recovery required under this Act. The Committee notes that only reasonable costs are to be charged, commensurate with the licensee's or permittee's interest in or benefits from the undertaking that affects an historic property.

Item (3) provides that the one percent limitation in Section 7(a) of the Act of June 27, 1960 may be waived in certain instances. The previous limitation stated that no more than one percent of project costs may be used to recovery historic data and specimens adversely impacted by a Federal project. It is expected that recovery costs in excess of one percent will be appropriate only in unusual cases, such as where rich concentrations of historic materials will be destroyed or where the project costs are not commensurate with the necessary mitigation to be accomplished. Rather than require that each such unusual project get legal relief from the limit, this Act provides a mechanism of Secretarial concurrence and Congressional notification for such relief.

TITLE III—AMENDMENTS TO TITLE II OF NATIONAL HISTORIC PRESERVATION ACT

Title III makes changes in the authorizing legislation for the Advisory Council on Historic Preservation. The Council was established in the 1966 Act, and has proven to be an important element in the national historic preservation program. Foremost among its activities are the review of Federal actions affecting historic properties and the provision of expert advice to the President and the Congress on historic preservation matters. The amendments in this Title are intended to improve the Council's capability to perform those duties.

Section 301 amends Section 201 of the National Historic Preservation Act concerning the membership and certain administrative functions of the Council. Section 301(a) would reduce the Council's membership from 29 to 18; this is intended to improve the efficiency of the Council operations and provide a more balanced forum where representatives of various interests can deliberate on policy questions and reach true "public interest" decisions on historic preservation matters.

The Chairman of the Council would remain a Presidential appointee, to be chosen with due consideration of a broad-based background that includes knowledge or experience in historic preservation. Representation from the Federal Government is reduced to six members. Three—the Secretaries of the Interior and of Agriculture and the Architect of the Capitol—are permanent ex officio members. The remaining three are to be appointed by the President from Federal agencies whose activities affect historic preservation. The appointments to the Council should include the major impact agencies—such as Housing and Urban Development—and should be reviewed periodically and revised as government programs and policies change, so that those agencies whose activities most affect historic preservation can succeed to Council membership. The amendments specifically add, for the first time, a

governor and a mayor to the Council membership to better represent the concerns of State and local government in the Council's deliberations.

The amendments continue the ex officio membership status of the President of the National Conference of State Historic Preservation Officers and the Chairman of the National Trust for Historic Preservation. Four expert members, appointed by the President, are added to the Council's membership to ensure a high level of professional preservation expertise on the Council. It is expected that these appointments will be made to ensure that professional representation is provided for each of the three disciplines specified (architecture, history and archeology) and one from a related discipline (such as urban planning, engineering, recreation, landscape architecture, anthropology, economics, human geography, or law) when the practice of such discipline directly or primarily involves historic preservation. Lastly, the three at-large members from the general public, appointed by the President, are included to provide a voice for the citizens whose daily lives are affected by historic preservation activities. They may be appointed as representatives of a group—such as civic associations or labor unions—or as individual citizens.

The Committee notes that the council has, in the past, invited Federal agencies who were not members to participate in Council activities as non-voting attendees. This practice provides an efficient and effective method of bringing concerned organizations into the Council forum, and the Committee encourages the Council also to invite appropriate non-governmental organizations.

The Committee also notes that the Council has adopted a practice of using panels of members to act on its behalf with regard to specific issues. When approved by the full membership of the Council, this course of action is an accepted means to improve operating efficiency while preserving the underlying representational nature of the Council.

Section 301(b) amends the provisions concerning designees of Council members to reflect the changes in membership and to ensure that the Federal representatives to the Council are at appropriate policy-level positions.

Section 301(c) revises the terms for appointed members to provide an orderly rotation in accordance with the reduced number of Council members.

Section 301(d) provides for a transition from the existing Council to the restructured Council. Time limits have been set for the appointment of members to the Council to ensure that these amendments are effectuated within 180 days and to prevent the undue delay of subsequent appointments, which has been a continuing hindrance to the Council's operations.

Section 301(e) continues the office of Vice Chairman and limits eligibility to non-Federal members.

Section 301(f) amends the quorum requirements to be consistent with the revised number of members.

Section 301(g) amends the Council's general authorities to reflect areas that require special attention from the Council. Increased emphasis is placed on the Council's information and education activities, which include training relating to the Section 106 process. It is felt

that greater investment of Council resources in such efforts promotes understanding of historic preservation opportunities and responsibilities and reduces conflicts that may later arise, particularly those that relate to the policies and programs of Federal agencies. This section also amends the Council's annual reporting duties to specify that the Council should assess the implementation of this Act and address problem areas in the historic preservation field. This provision recognizes the unique capabilities of the Council, stemming from its interdisciplinary nature, to provide a criminal overview of the national historic preservation program and to identify those areas of special concern. It is expected that the Council will use its various authorities to suggest legislative and administrative solutions to the problems it identifies.

Section 301(h) amends the compensation and subsistence provisions in the 1966 Act to make them consistent with the revisions in membership.

Section 301(i) clarifies the existing authority of the Council to institute legal proceedings on its own behalf to ensure compliance with the Act. Specifically added is language that refers to the enforcement of agreements with Federal agencies under Section 106, other authorities contained in this Act and implementing regulations. In most instances it is expected that the Council will utilize the services of the Department of Justice with regard to litigation. However, it is recognized that situations may arise where a Federal agency may violate the provisions of this Act and the only recourse is initiation of legal proceedings by the Council in its own name.

Section 301(j) is a technical amendment to remove existing restrictions on the Council's acceptance and use of donated moneys.

Section 301(k) amends the Council's authorities in providing comments, testimony or recommendations on legislation by deleting the requirement that such comments must also be transmitted to the Congress whenever they are submitted to the President or the Office of Management and Budget. This requirement has proven to hinder the Council in its provision of independent advice to both the President and the Congress. The Committee did not delete, however, the requirement in the 1966 Act that provides that the Council may not be required to submit to any officer or Federal agency its legislative recommendations, testimony or comments on legislation prior to submission to the Congress; this assures that the Congress, as well as the President, will continue to receive the direct benefit of the Council's advice and recommendations.

Section 301(l) amends the Council's rulemaking authority by adding a provision to promote the participation of local governments in Council activities, especially under Section 106, that affect their interests. This amendment recognizes the increasing amount of interaction between the Council and local governments, and ensures that local governments have a formal opportunity to make their views known in the Council's proceedings.

Section 302 amends the National Historic Preservation Act to add two new sections—Sections 213 and 214—to the Council's authorities.

Section 213 authorizes the Chairman of the Council to request a report from the Secretary of the Interior regarding the significance of an historic property, the effects of an undertaking on such property, and

recommendations for dealing with the effects. The provision recognizes that the Council's decisions on preservation questions that come before the Council represent a public interest determination, that assures that historic preservation needs are satisfactorily balanced with other public policy requirements. The amendment authorizes the Secretary to provide necessary professional information to the Council so that such information on a property's importance and appropriate alternatives to its impairment can be placed before the Council and sufficiently factored into the Council's deliberations.

Section 214 directs the Council, with concurrence of the Secretary, to promulgate regulations or guidelines for exempting Federal programs, or classes of undertakings, from any or all of the requirements of this Act, when such programs or undertakings would have minimal impact on historic preservation. Although the Committee recognizes that certain Federal programs, or classes of undertakings, would have little or no impact on historic preservation and thus may be given certain exemptions, it is not the intent of this section to permit the exemption of an individual undertaking from Section 106 when an agency merely desires to follow a more expedient route.

TITLE IV—INTERNATIONAL ACTIVITIES AND WORLD HERITAGE CONVENTION

Title IV provides legislative implementation for United States participation in the Convention Concerning the Protection of the World Cultural and Natural Heritage, approved by the United Nations Educational, Scientific and Cultural Organization (UNESCO) on November 23, 1972, and approved by the United States Senate on October 26, 1973.

The purpose of the Convention is to establish an effective system of collective protection of the cultural and natural heritage "of outstanding universal value," organized on a permanent basis and in accordance with modern scientific methods. The Convention leaves it to each participating nation to identify and delineate the meritorious heritage properties situated in its own territory, and requires each participating nation to endeavour to integrate protection of the cultural and natural heritage into comprehensive planning programs; to establish one or more services for the protection, conservation and presentation of the cultural and natural heritage with an appropriate staff and means of discharging their function; to develop scientific and technical studies and research and operating methods as necessary; to take appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation of this heritage; and to foster training and encourage scientific research in these fields.

The Convention also establishes an Intergovernmental Committee for the Protection of the Cultural and Natural Heritage of Outstanding Universal Value, called "the World Heritage Committee" within UNESCO. Members of the Committee are to be elected to ensure an equitable representation of the different regions and cultures of the world. Each participating nation is directed to submit to the World Heritage Committee an inventory of property forming part of the cultural and natural heritage, situated in its territory and suitable for inclusion on the World Heritage List. The inclusion of a property in the World Heritage List requires the consent of the nation involved.

Section 401(a) of this Act requires the Secretary of the Interior to direct and coordinate the United States participation in the World Heritage Convention, in cooperation with the Secretary of State, the Smithsonian Institution, and the Advisory Council on Historic Preservation. It is also expected that the Secretary will also consult, when appropriate, with the Council on Environmental Quality and other Federal agencies. The Committee recognizes the initiatives and experience of the National Park Service and other Federal agencies in assisting other nations to establish, protect, manage and interpret the more than 2,000 protected heritage areas established on every continent and in over 115 countries. These efforts have been instrumental in binding the natural and cultural resource managers of the world community to the common objectives of preserving and managing nationally and internationally significant resources. The Committee expects therefore, that the National Park Service and other Federal agencies with related experience will have significant leadership roles in developing the United States' recommendations relative to the World Heritage Convention, including the provision of technical assistance and information to other nations and international organizations dedicated to the protection of natural and cultural resources. In complement to this, the Secretary should consult with these agencies concerning the continuing international traffic in illegally held historic properties, which adversely affects the cultural heritage of the United States, and encourage actions that will assist in preventing such traffic. The development of self-help preservation and management capabilities through training programs in the United States and overseas should also be emphasized. Cooperative assistance from both governmental and non-governmental organizations with comparable objectives and interests should be sought to the extent possible.

Section 401(b) directs the Secretary periodically to nominate properties determined to be of international significance to the World Heritage Committee. It is expected that determinations of national significance will primarily be made through the existing National Historic Landmarks and National Natural Landmarks programs. To assure Congressional oversight of the nominations, the Secretary must notify the appropriate authorizing committees in the U.S. Senate and House of Representatives before making the nominations. Non-Federal property may not be nominated unless the owner of such property concurs in writing to such nomination.

Section 402 requires that when a Federal undertaking outside the United States would directly and adversely affect a property on the World Heritage list, or any nation's equivalent of the National Register of Historic Places, the agency will take into account the effect of the undertaking on the property to avoid or mitigate any adverse effects.

TITLE V—GENERAL, ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

Section 501 amends the National Historic Preservation Act to add a new Title III, with Sections 301 through 307.

Section 301 provides definitions used in the National Historic Preservation Act for: Agency, State, Local Government, Indian Tribe, Historic property or historic resource, National Register or Register,

Undertaking, Preservation or historic preservation, Cultural park, Historic conservation district, and Secretary.

The Committee notes that the definition of "historic property" or "historic resource" is not intended to expand the definition beyond its usage in the 1966 Act to include natural areas—the term "prehistory" is only intended to be used in the context of human prehistory. The Committee further notes that the inclusion of "artifacts, records and remains" relates *only* to a district, site, building, structure or object included on or eligible for inclusion on the National Register.

The Committee also notes that the term "undertaking," as it is used in other sections of the Act, is meant to be used in the same context as described in Section 106. The Advisory Council on Historic Preservation has adopted an acceptable definition within its regulations, published as 36 CFR 800. The Committee intends that the Council take a "reasonable effort" approach in guiding Federal agencies in carrying out their preservation responsibilities. This means that the degree of Federal involvement in an undertaking and the relation of that involvement to the effects on an historic property should both be considered when an agency determines the actions it will take, or which it requires an applicant to take, to comply with the provisions of this Act and its implementing regulations.

Clearly, an applicant for a substantial Federal grant to fund a project that has high potential for having significant adverse impacts on an historic property should be required to take care in identifying those properties and evaluating the project's effects. Here the Federal assistance is directly and closely related to the effects on the historic resource. At the other end of the spectrum is Federal technical assistance, such as provided by the Soil Conservation Service, for a privately funded action that could be carried out without any other Federal aid. The Committee expects, in those cases, that the agency will take into account the effects on historic properties of the technical assistance by advising the land owner of the values of conserving such properties, and by helping the owner identify the historic resources and minimize the effects of the assisted actions. However, the property owner could decide whether or not to follow the advice, and it would be solely up to the involved Federal agency to determine whether failure to heed the advice would affect the provision of assistance.

The Committee intends, by providing definitions for "State Review Board" and "Historic Preservation Commission," to ensure that these boards and commissions function primarily as professional bodies which can objectively evaluate the historic significance of properties and provide professional advice on historic preservation matters. It is expected that the State Review Board will review National Register nominations and appeals, review appropriate documentation submitted in conjunction with the Historic Preservation Fund, provide general advice and guidance to the State Historic Preservation Officer, and perform other duties as required. The local Historic Preservation Commission will evaluate recommendations concerning National Register nominations, and advise and assist the chief elected local official on matters related to historic preservation. It is expected that the regulations required of the Secretary for approved State programs and certification of local programs will provide sufficient guidance to

assure that the intent of the Committee for these boards and commissions is met.

The Committee also notes that the term "preservation" includes acquisition, to assure that acquisition as well as other activities such as development and documentation are included as preservation activities. This was done for purposes of clarity, as H.R. 5496 deletes the 1966 Act's definition of "project." Nothing in the current definition of preservation, however, is intended to change or expand the provisions of any other Federal law concerning the acquisition of property by Federal agencies.

Section 302 permits Federal agencies to expand funds appropriated for its authorized programs for the purposes of this Act. The intent of this section is to encourage the incorporation of historic preservation in the on-going programs of Federal agencies, by recognizing and supporting historic preservation's role as part of multiple resource management.

Section 303 authorizes the Secretary to accept and use donations and bequests of money and personal property for purposes of historic preservation. The Secretary is permitted to accept gifts or donations of less than fee interests to facilitate the conservation or preservation of an historic property. The Committee expects that the Secretary will use this authority prudently and will carefully examine each such donation on a case-by-case basis.

Section 304 permits Federal agencies, after consultation with the Secretary, to withhold from public disclosure information about the location and character of any identified historic property if disclosure would create a substantial risk of the property's harm or destruction. The section expands upon Section 101(a) of the National Historic Preservation Act, as amended in 1976, which only authorizes the Secretary to so withhold National Register property information, and Section 9 of the Archaeological Resources Protection Act of 1979, which provides for non-disclosure of sensitive information about archeological site locations. The intent is to assure protection of sites from theft, vandalism or destruction, not to prohibit legitimate scientific or humanistic study.

Section 305 provides that, in civil actions brought in U.S. District Courts by any interested person to enforce the provisions of this Act, the court may award reasonable attorneys' fees, expert witness fees and other related costs to the person if he or she substantially prevails. The intent is to ensure that property owners, non-profit organizations and interested individuals who may otherwise lack the means for court action be awarded reasonable costs for actions taken under this Act. The intent is not to award costs for frivolous suits against Federal agencies.

Section 306 provides for the use of the Pension Building in Washington, D.C. for purposes of a Museum of the Building Arts, in cooperation with the Secretary of the Interior, the Administrator of the General Services Administration and the Committee for a National Museum of the Building Arts (or its successor organization).

The Committee notes that, in January 1978, following two years of intensive research, the Committee for a National Museum of the Building Arts (funded in part by a grant from the Department of Housing and Urban Development) published its proposal for a new museum

in the Pension Building. The report was entitled "The Pension Building." On the basis of this document, Congress passed P.L. 95-596 (92 Stat. 2544) in November 1978 which had as its stated purpose "To initiate preliminary studies for the restoration and renovation of the Pension Building . . . to house a Museum of the Building Arts." The Congress further declared that "the Pension Building would most appropriately be dedicated to the public use as the Nation's Museum of the Building Arts, benefiting this and future generations."

As a result of the Congressional mandate, the General Services Administration completed a study to determine the cost of renovation. The GSA's conclusion was that renovation of the Pension Building will cost \$16 million, whether for conventional office use or to house the Museum of the Building Arts.

In H.R. 5496, Congress is acting upon its 1978 mandate to establish a Museum of the Building Arts in the Pension Building. In doing so, it is recognized that the future of the historic Pension Building—built in the mid-1800's to house the National Pension Bureau—directly concerns all Americans who care about our nation's past as well as our future. Just as historic preservation is concerned about all aspects of our nation's prehistoric and historic environment, so the museum can provide a focus and a forum for all who are concerned about our nation's future development. By incorporating the museum within the National Historic Preservation Act, the Committee intends to assure that historic preservation, in all its aspects, be included in the broader aspects of the built environment encompassed by the museum.

The Museum of the Building Arts will be the first institution in this country founded solely to focus attention on the built environment through a national program of exhibitions and publications. It also will serve as a much-needed central information bank for professional associations, unions, manufacturers and professionals responsible for what currently is being built in our nation and will create a collection and resource center for the teachers, writers and students concerned with our past achievements and present efforts in the art of building.

Section 306(a) explains the Committee's purposes: to provide a national center for the building arts, and to preserve the nationally significant Pension Building which exemplifies the great achievements of the building arts in America. The section directs the Secretary of the Interior and the Administrator of the General Services Administration to enter into a cooperative agreement with the Museum of the Building Arts, or its successor. The goal of the museum, its programs relating to the architectural and archeological history of the nation, form the common ground on which rests the cooperative agreement with the Secretary. The relationship of the museum with the Administrator of the General Services Administration rests on the concern of the museum with all buildings, including those of a Federal or public nature, and in its occupancy of the Pension Building, which belongs to the GSA. It is intended that the agreement provide flexibility, so that the Committee may exercise its responsibilities and functions with a minimum of Federal intrusion. The purposes and goals of the museum are clearly set out in this section to include information, education, exhibition, research and the encouragement of excellence in the building arts.

Section 306(b) provides certain guidelines, which are intended to be flexible, for the cooperative agreement. The agreement should, among other things, provide for the development of cooperative programs between the museum and the appropriate divisions of GSA and Interior. It is anticipated that all parties to the cooperative agreement understand that each has obligations to facilitate the working of the agreement in a timely and cooperative spirit.

Section 306(c) provides authorization for matching grants to the Committee for its programs that relate to the commemoration, preservation and enhancement of our national historic heritage. The grants are limited to no more than \$500,000 and are to be matched with funds and services in a manner to be mutually agreed upon between the Secretary and the Committee.

Section 306(d) directs the Administrator, with the advice of the Secretary, immediately to renovate the Pension Building, to save the historic architectural character of the building consistent with the needs of the museum, and to retain the building's central court for appropriate public activities. It is expected that the renovation will be carried out in consultation with the Committee to meet the needs of the building's use as a museum as well as to assure the continued historic integrity of the structure itself.

One of the first priorities for renovation of the building should be repair of the roof, estimated by the GSA at \$2 million. The roof is badly deteriorated, and leakage not only damages the rest of the building, but severely restricts its use. The GSA study recommends that substantial renovation of the Pension Building roof be undertaken before major structural damage occurs. The Committee concurs with the recommendation and emphasizes that this must be done.

Section 306(e) expresses the intent that the Committee will maintain a close relationship with the Secretary and the Administrator and shall supply them with an annual report on its activities, and such information periodically that they deem necessary. It is expected that the Committee will also forward such report and information to the appropriate committees of the Congress.

Section 306(f) defines the areas of concern with which the Museum of the Building Arts will be primarily, although not exclusively, involved. The definition is intended to provide flexibility to ensure that all related disciplines are included.

Section 307 requires the Secretary to send a copy of the regulations proposed under this Act to the authorizing committees of the U.S. Senate and House of Representatives at least 30 days before publishing those proposals in the Federal Register. The Secretary is also directed to send any final regulations to the committees before publication in the Federal Register. Except in the case of emergencies, no final regulation will become effective before 30 calendar days after publication during which either or both Houses of Congress are in session.

Section 307(b) provides that in the case of an emergency, a final regulation may become effective if the Secretary has notified the authorizing committees in writing, setting forth the reasons for the emergency.

Section 307(c) provides that a final regulation shall not become effective if within 90 calendar days of continuous session both Houses of Congress adopt a concurrent resolution disapproving the regulation.

Section 307(d) states that if, at the end of 60 days of continuous session, no committee of the House or Senate has reported or been discharged from further consideration of a concurrent resolution of disapproval of the regulation and neither House has adopted such a resolution, the regulation may go into effect immediately.

Section 307(e) defines the time period for consideration by the Congress of the regulation and current resolution.

Section 307(f) expresses the intent that Congressional inaction on or rejection of a resolution will not be considered an expression of approval of a regulation.

Section 502 directs the Secretary, in consultation with the American Folklife Center of the Library of Congress, to determine means by which certain "intangible" elements of the nation's cultural heritage may be identified and afforded appropriate protection and benefits, such as those protections now accorded tangible historical resources under this Act. It is expected that the American Folklife Center will play a leading role in the study and in developing the recommendations from it, including recommendations for legislative and administrative actions by the Federal government to preserve, conserve and encourage the continuation of the diverse traditions that are part of America's folklife heritage. The Committee recognizes that, to understand the significance of our nation's historic resources, we must also understand the people and communities who created those resources. The "grass-roots culture," as folklife is sometimes referred to, not only tells us about the past but also remains today as part of our living heritage.

An example is a study the American Folklife Center did in Paradise Valley, Nevada. The study was of the broad cultural resources of the entire valley, from buckaroo practices to basic stories of Italian ranching. During the course of the study, they came upon a whole complex of stone buildings, created by Italian stone masons who came to northwest Nevada in the mid-1800's. The buildings are still there and some are on the National Register; they, and more modest structures, were subsequently documented. The question remains, however, that once the buildings are preserved, what of the crafts themselves? The Folklife Center's project discovered Italian-Americans living in the area who still know how to do the stone masonry. How can these talents and skills of the past be preserved and passed on? No one has easy answers, but the Committee recognizes that there is a preservation need there that is not now being met. The study required by this section is intended to provide an opportunity, for the first time at the Federal level, to explore the ramifications of intangible resources, from skills and crafts to folk music, dance and arts.

The Committee also notes that the National Park Service has conducted a number of folklife programs in cooperation with the National Council for the Traditional Arts, as well as with the American Folklife Center. It is expected that the study conducted pursuant to this Act will draw upon these experiences and that the National Park Service, other Federal agencies, the National Council for the Traditional Arts, the National Museum for the Building Arts, the American Anthropological Association and other government and non-government entities will be included in the study. Many opportunities are available on both public and private lands, and through both public

and private resources, for the identification, preservation and enhancement of our nation's intangible, folklife heritage.

Section 503 directs the Advisory Council on Historic Preservation, in cooperation with the Secretary of the Interior and the Secretary of the Treasury, to submit a report to the President and the Congress, within one year of enactment, on Federal tax laws relating to or affecting historic preservation. The study should not be limited to present laws specifically directed at historic preservation, but should also consider other provisions in the tax laws—such as those relating to the taxation of estates—that have an impact on preservation. The section further directs that the report include recommendations on changes in the laws which would further the purposes of historic preservation as specified in this Act.

Section 504 directs the Secretary to review the operation of the Historic Preservation Fund and the national historic preservation program since enactment of this Act and to submit a report directly to the President and the Congress by June 1, 1986, with recommendations concerning appropriate funding levels, the time period for reauthorization for appropriations, and other appropriate legislation action. The Committee intends that the report include a comprehensive review and recommendations concerning the insured loan program established by this Act.

Section 505 directs the Pennsylvania Avenue Development Corporation (PADC) to review its development plan for those parts of its development area that are not under development or committed for development as of the date of enactment. The purpose of the study is for the PADC to identify means by which the historic values of the area may be preserved and enhanced to the maximum extent feasible. The PADC shall include in the review, a review of its development plan to determine the extent, if any, that the plan is inconsistent with such values.

The section further provides that the PADC is not required to take any action, other than conducting the review, either during the conduct of the review or its subsequent consideration by the Congress. It is the Committee's intent that conduct of the review shall in no way impede the Corporation from carrying out the present development plan, including the commitment of new areas for development. In addition, the Corporation is not required to undertake activities to implement the recommendations of the review until further action by the Congress.

The Committee notes that the present development plan of the PADC calls for the demolition of certain buildings. Others, while not specifically slated for demolition face an uncertain future under the development plan. Therefore, the PADC may, in its discretion, alter or amend the plan during the course of the review, if they find it to be appropriate to preserve historic buildings.

As a Federal agency, PADC is expected to comply with the other requirements of law relating to Federal agencies, unless exempted.

Section 506 directs the Secretary to undertake a comprehensive study and make recommendations for a coordinated system of cultural parks and historic conservation districts. The study should propose alternatives concerning the management and funding of such system by public and private entities and various levels of government. The

Secretary is required to submit a report of the study and recommendations to the President and the Congress within two years of enactment of this Act.

Cultural park is defined in the National Historic Preservation Act to mean a definable urban area which is distinguished by historic resources and land related to such resources and which constitutes an interpretive, educational, and recreational resource for the public at large. Historic conservation district is defined to mean an urban area of one or more neighborhoods which contains historic properties, building having similar or related architectural characteristics, cultural cohesiveness or any combination of the foregoing.

The primary difference between a cultural park and an historic conservation district is the requirement that a cultural park must include resources for public uses—interpretive, educational and informational. A cultural park may, in fact, contain an historic district or historic conservation district, so long as appropriate forms of public uses are provided.

In considering the study, and formulating the recommendations, the Secretary should consider settings in which a distinctive environment or atmosphere prevails which reflects a particular social and historical heritage of intrinsic significance to an area. He should also explore opportunities for using cultural resources as part of educational programs where both students and visitors can study and understand historical relationships and development of various technologies. Urban waterfronts and other natural land areas with historical associations which offer active and passive recreational opportunities should be considered.

In addition, the Secretary should study and make recommendations concerning opportunities for development and revitalization of urban areas in conjunction with the management of urban recreational, cultural and historical resources; existing Federal activities affecting the identification, conservation and management of recreational, cultural and historic resources; and procedures for developing and coordinating activities in cultural parks and historic conservation districts through Federal, State and local programs and through private efforts.

Section 507 directs the Secretary of the Interior to submit a report to the President and the Congress on fire in historic properties, including a review of Federal laws to determine any relationship between these laws and arson or fire by "suspicious origin" and recommendations for amendments to such laws should a correlation be found to exist. The study should also address the feasibility and necessity of protective measures at the Federal, State or local level for the prevention, detection, and control of arson or fire by suspicious origin, and recommendations concerning the proper Federal role in assisting States and local governments. The report is due within 18 months after enactment of this Act.

In conducting the study and in making recommendations, the Secretary is directed to cooperate with the Secretary of the Treasury, the Administrator of the United States Fire Administration and the Administrator of the Federal Insurance Administration. In addition, the Committee expects that the Secretary will consult with other appropriate Federal agencies—including the U.S. Forest Service—and appropriate State and local agencies.

OVERSIGHT STATEMENT

The Committee on Interior and Insular Affairs has conducted a number of oversight reviews of the national historic preservation programs relating to the provisions of H.R. 5496. Studies have been conducted by the Committee staff and by the General Accounting Office (GAO) at the request of the Chairman. Many of the findings and recommendations from these studies have been incorporated into H.R. 5496. In addition, H.R. 5496 requires a number of additional specific studies and reports to the Congress on matters relating to historic preservation, in order to ensure continued review and oversight. None of the matters contained in the legislation have been the subject of any reports or recommendations from the Committee on Government Operations under Rule X, clause 2(b)(2) of the Rules of the House of Representatives.

INFLATIONARY IMPACT STATEMENT

The Committee estimates that enactment of H.R. 5496 will have little or no significant inflationary impact on the nation's economy. The bill primarily amends existing historic preservation programs. Furthermore, the renovation and reuse of historic properties, encouraged under the legislation, help to reduce inflation by conserving both energy resources and raw materials.

LEGISLATIVE HISTORY

H.R. 5496 was introduced on September 28, 1979. On March 17 and 18, 1980, the Subcommittee on National Parks and Insular Affairs held hearings on the bill and several related measures: H.R. 6504, H.R. 6805, and H.R. 2484. The Subcommittee met on September 22 to consider a staff draft containing revisions in the original bill; an amended version was then recommended to the full Committee.

COST AND BUDGET ACT COMPLIANCE

As already noted, the legislation extends the current annual authorization level for the Historic Preservation Fund at \$150 million for fiscal years 1982 through 1987. In addition it authorizes a new loan guarantee program to be funded from the nonappropriated balance of the Historic Preservation Fund in effect at this time (approximately \$365 million). The analysis of the Congressional Budget Office follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., October 1, 1980.

HON. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, U.S. House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 5496, the National Historic Preservation Act Amendments of 1980, as ordered reported by the House Committee on Interior and Insular Affairs, September 30, 1980.

This bill amends the National Historic Preservation Act of 1966 and directs the Secretary of the Interior to develop or revise regulations regarding certification of state historical preservation programs. Section 204 of the bill establishes a new loan guarantee program, which directs the Secretary of the Interior to establish and maintain a program for insuring loans made to finance any project for the preservation of a historic property. The loan program guarantee ceiling is set at the unappropriated balance of the Historic Preservation Fund in effect on the date of enactment of this Act, or approximately \$365 million (assuming early fiscal year 1981 enactment). There would not be any direct budget impact for the guarantee part of the loan program. However, such guarantees represent a contingent liability to the federal government, and a default on an insured loan would result in federal outlays. Such defaults would be covered by funds provided by appropriations action for just such a purpose. However, it is not possible to estimate the likely default rate and budget impact of the program.

The bill also directs that the head of each federal agency designate an official to be the agency's "Preservation Officer" and that each agency shall also designate qualified officials at the field or regional level to assist the preservation officer. After discussion with the Heritage Conservation and Recreation Service, it is assumed that such appointments may be made with existing agency personnel. Agencies would not have to designate or entitle a new position to carry out preservation activities, since such functions may be carried out by existing personnel who handle environmental issues. Thus, no new costs are estimated for this provision.

In addition, Section 205 of the bill extends current law and directs that \$150 million of Outer Continental Shelf Lands Act receipts from fiscal years 1982 through 1987 be available for appropriation for the Historic Preservation Fund. This is the same amount covered into the Historic Preservation Fund for fiscal years 1980 and 1981, although appropriations in recent years have been far below that level (\$60 million in fiscal year 1979 and \$55 million in 1980).

Title V of the bill provides for a two-house legislative veto of regulations proposed by the Secretary of the Interior under the National Historic Preservation Act, and mandates a number of studies. The studies cover such subjects as conserving intangible elements of cultural heritage, federal tax laws regarding historic preservation, operation of the Historic Preservation Trust Fund, plans of the Pennsylvania Avenue Development Corporation, coordination of cultural parks and districts and fire protection of historic properties. The costs of the legislative review of proposed regulations promulgated under the National Historic Preservation Act are highly dependent on the number of regulations reviewed by the relevant committees and the extensiveness of such reviews; however, the costs associated with this provision and with the required studies are not expected to be significant.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

Alice M. Rivlin,
Director.

COMMITTEE AMENDMENTS AND RECOMMENDATIONS

The Committee on Interior and Insular Affairs approved a revised substitute text for the bill and, on September 30, 1980, meeting in open session, ordered H.R. 5496, as amended, favorably reported by voice vote. The Committee recommends enactment of the bill by the House.

DEPARTMENTAL REPORTS

The following communications (September 10, 1979, two of March 14, 1980, and September 29, 1980) have been received from the Department of the Interior on matters that were incorporated into the amended text of H.R. 5496.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., September 10, 1979.

HON. THOMAS P. O'NEILL,
Speaker, U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Enclosed is the "National Heritage Policy Act of 1979," a bill to implement the National Heritage Program called for in President Carter's 1977 Environmental Message. The bill is the result of a study initiated in June 1977 by a National Heritage Task Force and program decisions made thereafter by this Department and the President. The Task Force was composed of numerous representatives of Federal and State agencies, private organizations, and individuals. Its recommendations have been widely circulated to interested individuals, groups, and government officials throughout the country.

We recommend that the enclosed bill be referred to the appropriate committee for consideration, and that it be enacted.

The purpose of the bill is to establish a national policy and provide the basis for implementing a program to assist in the identification and protection of areas and places of significance to our heritage. Our national heritage consists of that collection of resources important to Americans because they are significant aspects of our history and culture and significant elements of our natural environment. Natural areas include lands and waters of ecologic and geologic significance to this Nation's natural environment at the national, State, and local level. Historic places include districts, sites, buildings, structures, objects, networks, cultural landscapes, and neighborhoods significant in American history, architecture, archeology or culture at national, State and local levels. By identifying these areas and places, we will be helping to preserve our American heritage.

The National Heritage Program is a Federal initiative to work with the States and others to coordinate and strengthen existing public and private efforts to identify and protect significant natural areas and historic places. It will also provide a basis for developing and refining a consistent policy and program for heritage resources. The National Heritage Policy Act will not supplant any existing Federal program which identifies or protects natural areas or historic places. It will assist those programs by assuring that information on such resources is available to those programs in a timely manner and in a useful form. As such, it will facilitate rather than obstruct Federal planning and

Federal actions. In addition, the bill provides for the judicious application of exemptions from the program and agencies may issue counterpart regulations to ensure that program compliance is consistent with their missions, mandates, and time requirements.

Since a national program for historic preservation has been in place since the 1966 National Historic Preservation Act, the natural heritage component of the National Heritage Program must be brought up to a similar level of sophistication and development. The national program seeks to recognize, and use as a foundation, the accomplishments of Federal land management agencies and financial and technical assistance programs, and the efforts of State and local governments, Indian tribes, and private organizations and individuals as a means to efficient and effective identification and protection of heritage resources. Thus, the bill does not substantially change the requirements of existing programs for historic resources and seeks to build similar responsibilities for the conservation of significant natural areas. In order to avoid the additional regulation inherent in Federal programs, participation by the States is voluntary and Federal activities to support the program are to be consistent with their mission and mandates.

The proposal for a National Heritage Policy is designed to reduce duplicative inventory efforts and to enhance efficiency by coordinating ongoing heritage resource identification efforts. It will also improve the planning process of Federal agencies and aid environmental review by making information on the location, status, and condition of significant heritage resources available at early phases in planning. As such, this proposal is not another Federal acquisition program or protective system of Federal lands, but rather an effort to develop a uniform and consistent approach to the identification and inventory of significant natural areas and historic places—the foundation of a nationwide effort to protect heritage resources through informed planning and policy making.

The key components of the proposed National Heritage Program are as follows:

1. *The identification of potential heritage areas and places.*—Identification of natural and historic resources is a major step in the preservation of our national heritage. Identification of heritage resources will be undertaken by the States through State Natural Heritage Programs which they may voluntarily participate in, as established by section 201(f) and the State Historic Preservation Programs established in 201(g). Financial support for these programs will be available from the Land and Water Conservation Fund and the Historic Preservation Fund, respectively. Federal agencies are directed to locate and nominate to the Historic Register historic resources located on lands which they own or administer which appear to the head of any such agency to be eligible for the Historic Register, and similarly to cooperate with the Secretary and the States in identifying and nominating areas for the Natural Register.

2. *The Registers.*—Once identified, the States, Federal agencies, Indian tribes, individuals, or public or private agencies, as appropriate, may recommend areas and places which appear to be eligible for listing in either the National Register of Natural Areas, established by section 201(b) of this Act, or the National Register of Historic Places. The Secretary already administers the National Register of Historic

Places under authority of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. § 470 *et seq.* These recommendations will be forwarded to the Secretary as nominations to the Registers by the State Natural Heritage Officer or the State Historic Preservation Officer. In all cases, the owner of the resource will be notified when it is recommended for either Register. The criteria for natural areas and historic places of national, State, or local significance will be established under the Secretary's direction within one year of the effective date of the Act. These criteria will be developed in consultation with appropriate Federal agencies and participating States. The Registers will contain a comprehensive listing of areas and places significant to this nation's heritage which Federal agencies and State and local governments should consult early in their planning processes.

The criteria to be prepared for the designation of nationally significant areas will be capable of excluding as well as including areas and will be of high enough standards to limit those properties selected for national significance to a relatively small proportion of all properties eligible to be placed on the National Registers. Natural areas determined to be of national significance which are on the Register will be designated as National Natural Landmarks; nationally significant historic places which are on the Register will be designated as National Historic Landmarks.

3. *Protection.*—Once listed on either Register, or determined to be eligible for listing, significantly natural areas and historic places will receive a variety of protections:

a. The heads of Federal agencies responsible for Federal or federally assisted actions which may affect listed or eligible areas and places will be required to take such efforts into consideration for the purpose of avoiding or mitigating adverse impacts. This consideration will include consultation with the Council on Heritage Conservation, an independent Federal agency established by Title III of the bill. This procedure is currently required for places listed in or eligible for listing on the National Register of Historic Places, pursuant to section 106 of the National Historic Preservation Act of 1966, as amended. Section 204 of the bill extends the section 106 requirements to natural areas. The Advisory Council on Historic Preservation is renamed the Council on Heritage Conservation and has been expanded to include certain responsibilities for natural areas. The requirements of section 106 of the Historic Preservation Act of 1966, as amended, and section 204 of this Act will not prohibit Federal or federally assisted actions which may adversely affect eligible or listed areas and places, but will help assure that efforts to avoid unnecessary adverse impacts are undertaken.

b. Section 205 of the bill requires that any Natural or Historic Landmarks not be adversely affected by any Federal undertaking unless no prudent and feasible alternative exists, and then only when planning and action are undertaken to minimize harm. This requirement, although not prohibiting adverse impacts on listed areas and places, will assure that efforts to avoid unnecessary adverse impacts are undertaken.

c. Although no new or additional planning acquisition, or development funds are called for in this bill, States may use Federal financial

assistance for planning, acquisition, and appropriate development of significant natural areas and historic places. This element of the program is currently in effect for historic places under the Historic Preservation Fund established by the National Historic Preservation Act of 1966, as amended. Section 207 of this bill will make available similar funding arrangements for natural areas by amending section 6 of the Land and Water Conservation Fund Act, as amended, 16 U.S.C. § 4607-8, to authorize Federal assistance to States that wish to use this funding source for planning, acquisition, and development of eligible natural areas even though, in some instances, the recreational use of such areas and places may have to be limited in order to protect fragile resources.

d. In addition to the specific protection measures mentioned above, section 202 of the bill gives general authority to the Secretary to (1) further the identification and protection of significant natural areas and historic places through technical assistance, consultation and cooperation with other Federal agencies; (2) extend honorific recognition of exceptional efforts by local governments and the private sector in the identification and protection of heritage resources; and (3) study, in cooperation with other agencies and organizations, other appropriate protection measures and actions.

As an administrative complement to the legislative proposal, the Secretary has established, by Secretarial Order #3017 of January 25, 1978, a Heritage Conservation and Recreation Service within the Department of the Interior. This Service administers most of the programs formerly administered by the Bureau of Outdoor Recreation. In addition, the Secretarial Order transferred from the National Park Service to the Heritage Conservation and Recreation Service the National Natural Landmarks Program and the Office of Archeology and Historic Preservation, which administers the Historic Preservation Fund, the National Register of Historic Places, and the National Historic Landmarks Program. The consolidation of the planning and grant administration activities relating to outdoor recreation and the conservation of natural areas and historic places will serve to strengthen the efficiency and effectiveness of these programs and achieve necessary coordination between them which was lacking in the past.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely,

ROBERT HERBST,
Secretary.

Enclosure.

A BILL

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled, that this Act may be cited as the "National Heritage Policy Act of 1979."

TITLE I

The Congress finds and declares that—

(a) it is the public interest that natural and historic resources significant to this Nation's heritage and continuity be

identified and protected by a coordinated national approach to heritage conservation, so that a vital legacy providing scientific, educational, recreational and inspirational benefits will be maintained and enriched for present and future generations of Americans;

(b) while existing Federal financial and technical assistance programs, such as the Land and Water Conservation Fund and the Historic Preservation Fund, as well as established natural and historic programs of Federal land management agencies and State and local governments, conserve particular aspects of our heritage through the protection of parklands, historic areas, wildlife habitat, recreation areas and wilderness, these efforts do not provide for the complete, effective and efficient identification and protection of heritage resources, many of which are being eliminated or substantially altered by the activities of man;

(c) more orderly, accessible and complete information on the existence, location, condition and status of this Nation's natural and historic resources is needed for informed and consistent heritage planning and policy;

(d) for the reasons stated above, it is necessary and appropriate for the Federal government to cooperate with and provide direction for the efforts of States, local governments, Indian tribes, private organizations and individuals to identify and protect those natural and historic resources significant to this Nation's heritage through a comprehensive national heritage policy.

TITLE II—NATIONAL HERITAGE PROGRAM

SEC. 201. The Secretary of the Interior (hereinafter referred to as the "Secretary") shall:

(a) establish a Natural Heritage Program and an Historic Preservation Program;

(b) establish and administer a National Register of Natural Areas (hereinafter referred to as the "Natural Register") which shall include resources of national, State and local significance; *Provided*, That items of national significance shall be designated as National Natural Landmarks; and *Provided further*, That the designation of National Natural Landmark shall only apply to an area which clearly meets the standard for national significance established pursuant to revised criteria to be issued under section 201(e) of this Act.

(c) expand and administer the National Register of Historic Places (hereinafter referred to as the "Historic Register") established pursuant to section 101 of the Act of October 15, 1966, as amended, (16 USC 470a) which shall include resources of national, State and local significance; *Provided*, That items of national significance shall be designated as National Historic Landmarks; and *Provided further*, That the designation of National Historic Landmark shall only apply to an area which clearly meets the standard for national significance established pursuant to the criteria to be issued under section 201(e) of this Act.

(d) within one year of the effective date of this Act, develop or expand regulations or guidelines, as appropriate, for (1) docu-

mentation of significant information concerning the resources, (2) eligibility criteria for inclusion in the Natural or Historic Register, (3) nominations to the Natural or Historic Register by the State Natural Heritage Officer or the State Historic Preservation Officer established by subsections (f) and (g) of this section, respectively; *Provided*, That recommendations of resources which may be eligible for listing on the Registers may be made to the State by any agency or person, public or private, irrespective of the ownership or protective status of the resource, (4) notification by the State to the owners of natural areas and historic places that their property is being considered for nomination to the Natural or Historic Register, (5) listing resources in or removing them from the Registers; and (6) implementing the provisions of section 205 of this Act;

(e) establish revised criteria for the designation of nationally significant areas and places on the Registers which are: (1) clearly capable of excluding areas and places from the nationally significant category, as well as including them; (2) clearly understandable to those participating in the selection process and those potentially affected by it; (3) capable of objective and consistent application; and (4) of high enough standards to limit those areas and places selected for national significance to a relatively small proportion of all areas and places eligible to be placed on the National Registers. Review procedures shall be established to ensure that the criteria are applied and that nationally significant areas and places have met the criteria.

(f) within 18 months of the effective date of this Act, (1) develop, in consultation with the States, regulations or guidelines, as appropriate, for a State Natural Heritage Program and (2) request the Governor of each participating State to designate a State Natural Heritage Officer. This Officer may also be the State Historic Preservation Officer. The elements of each State's natural heritage shall include, but not be limited to, discrete types of: (1) terrestrial communities, (2) aquatic communities, (3) geologic features, (4) landforms, and (5) habitats of native plant and animal species which may be eliminated from the State without deliberate protection. It shall be the responsibility of each State Natural Heritage Officer to (i) classify, locate, study, analyze and plan for the protection of the elements of natural heritage located on non-Federal lands within the State boundaries; (ii) accomplish these responsibilities on Federal and Tribal lands with the cooperation of Federal agencies and Indian Tribes, as appropriate; (iii) coordinate with ongoing Federal programs; (iv) consolidate and maintain Federal and non-Federal resource data as part of a statewide data system; and (v) nominate areas containing the best examples of these elements for inclusion in the Natural Register. Upon the determination of the Secretary that it has established a Natural Heritage Program consistent with the regulations or guidelines developed under this subsection, a State may use funds available to it under section 6 of the Land and Water Conservation Fund Act, as amended, (16 USC 4601-8) for this purpose;

(g) within 18 months of the effective date of this Act (1) develop, in consultation with the States, regulations or guidelines, as

appropriate, for a State Historic Preservation Program and (2) request the Governor of each participating State to designate a State Historic Preservation Officer. It shall be the responsibility of the State Historic Preservation Officer to assist the Secretary in accomplishing the Secretary's preservation responsibilities within the State, and to assist Federal, State and local agencies and Indian tribes in accomplishing their preservation responsibilities as established under this Act.

(h) ensure and direct United States participation in the Convention Concerning the Protection of the World Cultural and Natural Heritage, approved by the Senate on October 26, 1973, and in other international activities concerning the conservation and preservation of natural areas and historic places, in cooperation with the Secretary of State, the Smithsonian Institution and the Council on Heritage Conservation, as established by Title III of this Act; *Provided*, That whenever possible, expenditures incurred in carrying out activities in cooperation with other nations and international organizations shall be paid for in such excess currency of the country or area where the expense is incurred as may be available to the United States.

(i) consult with the Council on Environmental Quality to ensure that the administration of the National Heritage Program and any regulations or procedures issued to implement the program are coordinated with the Council's regulations for implementation of the National Environmental Policy Act to the maximum extent possible.

SEC. 202. The Secretary is authorized to:

(a) develop a process for the voluntary involvement of the public in the conservation and preservation of natural and historic heritage resources whereby the States: (1) encourage public participation in assisting with the identification and location of resources, (2) take conservation and preservation priorities of local governments into consideration in determining statewide conservation and preservation priorities, and (3) notify State agencies, local governments and the private sector of its priorities for protecting areas and places of national, State, and local significance, and provide them with technical information so that they can take appropriate action to protect the resources.

(b) extend honorific Federal recognition of exceptional efforts by local governments and the private sector in the identification and protection of significant heritage resources;

(c) develop and provide technical and non-technical information and assistance, including documentation standards for natural and historic resources which may be eligible for inclusion in the Natural or Historic Register, to other nations and international organizations, the States, Indian tribes, other Federal agencies, private conservation and preservation organizations, and other interested parties on all aspects of natural and historic heritage conservation;

(d) study, in cooperation with other agencies and private and public organizations, as appropriate, the feasibility and necessity of establishing or developing other protective measures at the

Federal, State, and local level for natural areas and historic places.
 SEC. 203. Each Federal agency shall:

(a) with the advice of the Secretary and in cooperation with the State Historic Preservation Officer for the State involved, locate and nominate to the Historic Register historic resources located on lands which it owns or administers that appear to the head of such Federal agency to be eligible for inclusion in the Historic Register;

(b) in cooperation with the Secretary, and subsequent to compliance with the National Environmental Policy Act, section 206 of the Act of October 15, 1966, as amended, (16 USC 470f) and with sections 204 and 205 of this Act, as appropriate, initiate measures to assure that where as a result of Federal action or assistance, resources included in, or eligible for inclusion in the Natural Register or the Historic Register are to be substantially altered or destroyed, timely steps are taken to recover significant data, attributes or values of the resources and to make or have made records. A copy of such records is to be deposited in the Library of Congress for future use and reference. Agencies may call on the Secretary for advice and technical assistance in the completion of the above records. Notwithstanding section 7 of the Act of June 27, 1960, as amended, (16 USC 469c) or any other provisions of law to the contrary, compliance with the data recovery requirements of that Act shall constitute compliance with this subsection for the purposes of data recovery at historic places. The costs of such recovery may be conveyed to Federal licensees, permittees or grantees;

(c) initiate measures and procedures to provide for the maintenance, through preservation, rehabilitation, or restoration, of federally owned historic resources of national significance in accordance with standards prescribed by the Secretary;

(d) cooperate with purchasers and transferees of any federally owned or administered property included in, or eligible for inclusion in, the Natural or Historic Register in the development of plans for users of such property that are compatible with conservation and preservation objectives without imposing unreasonable economic burdens on public or private interests;

(e) cooperate with the Secretary and the States in collection, use, and exchange of compatible heritage resource information;

(f) consistent with its missions and mandates: (1) cooperate with the Secretary and the States in efforts to classify, locate, study, analyze, and plan for the protection of the elements of the States' natural heritage, particularly those located on Federal lands; (2) integrate information contained in the State Natural Heritage Program inventories into its ongoing planning process; (3) in cooperation with the State Natural Heritage Officer for the State involved, nominate to the Natural Register natural resources located on lands which it owns or administers that appear to the head of such Federal agency to be eligible for inclusion in the Natural Register;

(g) within 24 months of the effective date of this Act, develop regulations or guidelines, as appropriate, to carry out its responsibilities under this Act.

SEC. 204. The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal agency having authority to license any undertaking, shall, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, take into account the effect of the undertaking on any area included in or eligible for inclusion in the Natural Register. The head of any such agency shall afford the Council on Heritage Conservation, as defined in 'title III of this Act, a reasonable opportunity to comment with regard to such undertaking.

SEC. 205. Prior to the approval of any Federal undertaking which may adversely affect any Natural or Historic Landmark, the head of any Federal agency shall determine that no prudent and feasible alternative to such undertaking exists, shall, to the maximum extent possible, take such planning and actions as may be necessary to minimize harm to such Landmark, and shall afford the Council on Heritage Conservation a reasonable opportunity to comment on the undertaking; *Provided*, That this section shall not take effect until after the criteria to be prepared pursuant to section 201(e) are promulgated.

SEC. 206. Within six months of the effective date of this Act, the Council on Heritage Conservation with the concurrence of the Secretary shall promulgate regulations or guidelines, as appropriate, for the exemption of Federal undertakings from any or all of the requirements of this Act or the Act of October 15, 1966, as amended, (16 USC 470f) when such exemptions will not substantially impair the protection of natural areas or historic places, taking into consideration the magnitude of the exempted undertaking or program and the likelihood of impairment of natural areas and historic places.

SEC. 207. Section 6 of the Land and Water Conservation Fund Act of 1965, as amended, (78 Stat. 900; 16 USC 4601-8) is further amended by—

(a) revising subsection (a) to read:

“(a) The Secretary of the Interior (hereinafter referred to as “Secretary”) is authorized to provide financial assistance to the States from monies available for State purposes. Payments may be made to the States by the Secretary as hereafter provided, subject to such terms and conditions as he considers appropriate and in the public interest to carry out the purpose of this Act, for (1) planning, (2) acquisition of lands, waters, or interests in land and waters, or (3) development for outdoor recreation and the conservation of natural areas; *Provided*, That such areas may be subject to uses or use restrictions as are found by the Secretary to be consistent with the maintenance of their natural qualities and condition.”

(b) inserting before the colon in subsection (d) (2) the following words: “, and appropriate development or protection of natural areas”; and

(c) deleting in the first sentence of subsection (f) (3) the words “public outdoor recreation uses” and substituting “public outdoor recreation or natural area conservation uses”, and deleting in the second sentence the words “recreation properties” and substituting “recreation or natural area properties, as appropriate.”.

SEC. 208. Section 101(a)(1) of the Act of October 15, 1966, as amended, (16 USC 470a) is hereby amended to read:

“(a) to expand and maintain a national register of districts, sites, buildings, structures, objects, networks, cultural landscapes, and neighborhoods significant in American history, architecture, archeology or culture, hereinafter referred to as the National Register, and to grant funds to States for the purpose of preparing comprehensive statewide historic surveys and plans, in accordance with criteria established by the Secretary, for the preservation, acquisition, and development of such properties.”

SEC. 209. Section 108 of the Act of October 15, 1966, as amended, (16 USC 470h) is amended by deleting the phrase “for fiscal year 1981” and inserting in its place the phrase “per year for fiscal years 1981, 1982, and 1983.”

TITLE III—COUNCIL ON HERITAGE CONSERVATION

SEC. 301. Title II of the Act of October 15, 1966, as amended, (16 USC 470i) is further amended as follows:

(a) Amend section 201(a) as follows:

(1) delete the words “an Advisory Council on Historic Preservation” and substitute in lieu thereof “a Council on Heritage Conservation” and any reference in law to the Advisory Council on Historic Preservation shall hereafter be considered a reference to the Council on Heritage Conservation; and

(2) delete from section 201(a) the word “twenty-nine” and substitute in lieu thereof “thirty-three”;

(3) delete sections 201(a)(9), (13), (17) and (18) and substitute in lieu thereof:

(9) The Secretary of Labor;

(13) The Secretary of Energy;

(17) The Administrator of the Environmental Protection Agency;

(18) The Director of the National Science Foundation;

(19) The Chairman of the National Endowment for the Humanities;

(20) The Chairman of the National Endowment for the Arts;

(21) Thirteen appointed by the President from outside the Federal government. In making these appointments the President shall give due consideration to equal representation of persons with expertise in natural area conservation and historic preservation, and to the selection of officers of State and local governments, Indian tribes, and individuals who are significantly interested and experienced in the matters to be considered by the Council.

(b) Amend section 201(b) by deleting “(17)” and substituting in lieu thereof “(20)”;

(c) Amend section 201(c) to read as follows:

“(c) Each member of the Council appointed under paragraph (21) of subsection (a) shall serve for a term of four

years from the expiration of his predecessor's term; except that the members first appointed under that paragraph shall serve for terms of from one to four years, as designated by the President at the time of appointment, in such manner as to insure that the terms of not more than five of them will expire in any one year."

(d) Amend section 201 (d) to read as follows:

"(d) A vacancy in the Council shall not affect its power, but shall be filled in the same manner as the original appointment (and for the balance of any unexpired terms); *Provided*, That each member of the Advisory Council on Historic Preservation appointed by the President under former paragraph (18) of the Act of October 15, 1966, as amended, in office on the date of enactment of this Act, shall remain in office until such time as the member's term expires or the President appoints a new member under paragraph (21) of subsection (a) of this section;"

(e) Amend section 201 (e) to read as follows:

"(e) The Chairman of the Council shall be designated by the President from among those members appointed under paragraph (21) of subsection (a) of that paragraph. The President shall also designate a Vice Chairman who shall act in place of the Chairman during the absence or disability of the Chairman or when the office is vacant."

(f) Amend section 201 (f) by deleting the word "fifteen" and substituting in lieu thereof the word "seventeen."

(g) Amend section 202 (a) (1) by inserting prior to the semicolon in the first clause, "and conservation of natural areas" after the term "historic preservation" whenever it appears;

(h) Amend section 202 (a) by adding at the end thereof the following new subsections:

"(6) review Federal policies and programs affecting historic places and natural areas to recommend means to improve the effectiveness, coordination and consistency of those policies and programs; and

"(7) inform and educate interested Federal agencies, State and local governments, Indian tribes, other nations and international organizations and private groups and individuals as to the Council's authorized activities.";

(i) Amend section 204 by striking the term "(17)" in the first sentence and inserting in lieu thereof "(19)" and striking the term "(18)" in the second sentence and inserting in lieu thereof the term "(20)";

(j) Delete section 205 (c);

(k) Amend section 205 (d) by deleting the words "without regard to" and inserting in lieu thereof the words "in accordance with".

(l) Amend section 205 (g) by inserting after the word "facilities," in the second sentence the word "monies,"; and adding the following phrase at the end of the last sentence: "and the Executive Director in his administration of the Council is authorized, in his discretion, to accept, hold, use, expend and administer the same for the purposes of this Act.";

(m) Amend section 206(c) to read as follows:

“(c) For the purposes of this section, there is authorized to be appropriated an amount equal to the assessment for United States membership in the Centre for fiscal years 1979 and 1980; *Provided*, That no appropriation is authorized and no payment shall be made to the Centre in excess of 25 per centum of the total annual assessment of such organization.”;

(n) Delete section 210;

(o) Redesignate section 211 as section 210;

(p) Redesignate section 212(a) as section 211 and amend by deleting the last sentence and inserting in lieu thereof the sentence “There are authorized to be appropriated such sums as may be necessary to carry out such activities of the Council as may be authorized by the Congress.”; and

(q) Delete section 212(b).

SEC. 302. The Council is authorized to promulgate, within 120 days of the effective date of this Act, such rules and regulations as it deems necessary to implement its responsibilities under sections 204 and 205 of this Act.

TITLE IV—ADMINISTRATIVE PROVISIONS

SEC. 401. For the purposes of this Act—

(a) the term “agency” means “agency” as such term is defined in section 551 of Title 5, United States Code;

(b) the term “State” means any State of the United States; the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands;

(c) the term “undertaking” means any Federal, federally assisted or federally licensed action, activity, or program or the approval, sanction, assistance, or support of any non-Federal action, activity or program. Undertakings include new and continuing projects and program activities that are: (1) directly undertaken by Federal agencies; (2) supported in whole or in part through Federal contracts and grants, or other forms of direct and indirect funding assistance; and (3) carried out pursuant to a Federal lease, permit, license, certificate, approval, or other form of entitlement or permission;

(d) the term “Indian tribe” means the governing body of any Indian tribe, band, nation or other group which is recognized as an Indian tribe by the Secretary of the Interior and for which the United States holds land in trust or restricted status for that entity or its members;

(e) the term “eligible for” the Natural or Historic Registers as used in this Act and section 106 of the Act of October 15, 1966, as amended, means meeting the criteria established by the Secretary for listing in the Natural or Historic Register.

SEC. 402. Each Federal agency is authorized to expend funds appropriated for its authorized programs for the purposes of this Act.

SEC. 403. The Secretary may accept donations and bequests of money and personal property for the purposes of this Act and shall hold, use, and expend and administer the same for such purposes.

SEC. 404. The head of each Federal agency, after consultation with the Secretary of the Interior, shall withhold from disclosure to the public, information which might reveal the specific location, sites, objects, buildings, structures, terrestrial communities, aquatic communities, geologic features or landforms which are eligible for or included in the Natural Register or the Historic Register, whenever the head of the agency or the Secretary of the Interior has a reasonable basis for determining, and determines that the disclosure of such information would (1) create a substantial risk of harm, theft, or destruction to such sites, objects, buildings, structures, flora, fauna, terrestrial communities, aquatic communities, geologic features or landforms, or (2) create a substantial risk of harm, theft, or destruction to the area or place wherein such sites, objects, buildings, structures, flora, fauna, terrestrial communities, aquatic communities, geologic features or landforms are located, such as to destroy any or all of the features for which the area or place was determined eligible for or included in the Natural Register or the Historic Register.

SEC. 405. Nothing in this Act shall be construed to modify or amend existing authorities which provide for a greater degree of protection to natural areas and historic places; the more restrictive conservation or preservation authorities shall control.

SEC. 406. There are authorized to be appropriated such sums as are necessary to implement the provisions of this Act.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., March 14, 1980.

HON. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on H.R. 5496, a bill "To amend the National Historic Preservation Act of 1966 and for other purposes."

Although we support several of the provisions of H.R. 5496, we recommend against its enactment. Instead, we recommend the enactment of H.R. 6504, the proposed National Heritage Policy Act of 1979, which is identical to the Administration's proposal. Many of the provisions contained in H.R. 5496 are in H.R. 6504. Those that we support that are not now in H.R. 6504 are discussed herein and are recommended for inclusion in H.R. 6504.

The principal effects of H.R. 5496 would be as follows:

1. To restructure the National Register of Historic Places and incorporate both State and local inventories into officially recognized lists.
2. To create an independent historic preservation agency incorporating the current historic preservation functions of the Heritage Conservation and Recreation Service and the Advisory Council on Historic Preservation.
3. To authorize a comprehensive program of Federal loans and loan guarantees.
4. To restructure the Historic Preservation Fund (HPF) program to provide HPF money directly to qualifying communities primarily

through the State Historic Preservation Officers (SHPO) by directing program grants to certified State programs and mandating pass-through of funds to local bodies that have been approved by the SHPO.

5. To define comprehensively and expand Federal agency responsibilities for historic properties and offer tools to Federal agencies to assist them in that function.

6. To spell out in detail Departmental responsibilities and forms of participation in the World Heritage Program.

7. To mandate education and training programs for a wide range of audiences.

8. To reauthorize the HPF for \$150,000,000 through 1989.

9. To include a series of miscellaneous provisions on preservation awards, Center for the Building Arts, various reports, and a study of the Pennsylvania Avenue Development Corporation.

Several of the provisions of H.R. 5496 are included in H.R. 6504. These include: reauthorization of the Historic Preservation Fund for \$150 million through 1983; codification of the basic Federal responsibilities stated in Executive Order 11593; general direction for Departmental participation in the World Heritage program; creation of three new categories of properties for listing in the National Register; and establishment of the "prudent and feasible alternative" standard for Federal review of actions affecting National Historic Landmarks.

We believe that H.R. 6504 is a straightforward proposal, simple in design, which allows involvement at all levels of government, invites voluntarism, and encourages interplay in a purposeful manner to accomplish protection of our irreplaceable heritage resources. By contrast, H.R. 5496 is an extremely complex proposal that would be difficult to administer. H.R. 5496 would require this Department to maintain three separate lists of architecturally, historically, and archeologically significant properties, each triggering a different level of protection and assistance. We are opposed to this proliferation of lists as it would create confusion in both the public and private sectors. In addition, this would necessitate a significant increase in administrative workload.

This Department also strongly opposes the creation of a new preservation agency. Creation of such an agency would be detrimental to the proper functioning of the preservation program. The intended placement of property identification and evaluation functions in the agency that also conducts environmental review is of particular concern. There is a strong linkage between natural and cultural heritage responsibilities and we believe this linkage should be encouraged by separate but parallel programs administered by the same agency. This concept is the premise of H.R. 6504.

H.R. 5496 also authorizes the establishment of historic preservation loan and loan guarantee programs. Although loans and loan guarantees may be useful tools to accomplish historic preservation objectives, we have serious reservations relating to the cost-benefit ratio for Federal level administration of such programs because of their high administrative costs. Administration of such programs at the State level—closer to the resources—is more appropriate.

H.R. 5496 would create a highly structured grant program that includes legislated formulas and criteria. We instead prefer broader

authorizations that provide greater flexibility to respond to changing needs and effectively focus limited resources. We also oppose the concept of mandated program grants to all States since many State programs are not of sufficient size to effectively manage a programmatic grant. In addition, while we support the concept of encouraging local participation and responsibility for historic preservation efforts, we do not feel that the H.R. 5496 approach would accomplish this goal in all regions of the country and could result in spreading our resources too thinly. The President's fiscal year 1981 budget proposes that the States' Historic Preservation Fund allocations will be directed to the extent possible to building up local preservation programs.

We support codification of E.O. 11593, which defines Federal agency responsibilities for cultural resources. Although H.R. 5496 very generally addresses those responsibilities for cultural resources, it goes beyond E.O. 11593 by requiring specific property management plans and by imposing new penalties for failure to comply with Section 106 and E.O. 11593 requirements. We are opposed to both these additional requirements as unduly onerous.

The proposed National Heritage Policy Act identifies the Department's basic World Heritage responsibilities. H.R. 5496 is considerably more detailed, but not incompatible with the Department's current operation of the program. While we recognize the importance of training and education programs, we currently have the authority to conduct such programs. In this instance, as elsewhere, we prefer general authorities which permit maximum administrative flexibility as opposed to specific mandates.

We also oppose provisions that limit assistance to public buildings still in use for governmental purposes, establish a per year grant limit for specific properties, restrict the use of contributed goods and services as match for HPF money, and allow the head of the proposed new agency to impose a 60 day delay when a National Register property is scheduled for demolition.

We support the inclusion in H.R. 6504 of a provision that would permit the Secretary to provide program grants to States with comprehensive programs so that they can take a thorough approach to preservation while retaining project grant authority for other States not yet ready for full responsibility. This would allow those States flexibility in the matching ratios they establish and could accommodate grant funding of up to 100 percent for nationally significant properties. We believe, however, that States receiving such grants should match all Federal monies that are used for administrative expenses.

We support the provisions of H.R. 5496 that would provide specific authority for the use of HPF funds in projects that use other Federal funds. We believe, however, that, except as otherwise authorized by law, no other Federal funds should be used to match those HPF funds.

With respect to the provisions of H.R. 5496 that would waive current 1 percent limitation on use of project funds for archeological salvage, we ask the Congress to defer consideration of this issue until we establish an Administration position as to whether current authority already allows such waiver.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

ROBERT HERBST,
Secretary.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., March 14, 1980.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on H.R. 2484, the proposed "National Cultural Park Act of 1979".

We recommend the enactment of H.R. 6504 in lieu of H.R. 2484.

The purpose of H.R. 2484 is to improve the quality and increase the level of conservation and revitalization of natural and cultural resources in the Nation's urban and settled areas by:

1. establishing a 25-member Cultural Park Advisory Commission to study and submit within three years recommendations to the President and the Congress concerning the creation of a National System of Cultural Parks; and

2. authorizing the Secretary of the Interior to award a maximum of two grants to any State which demonstrates that it will develop an adequate management program for cultural parks or that it will otherwise assist the Commission.

H.R. 2484 contains several provisions that overlap with the Administration's proposed National Heritage Policy Act, 6504. For example, the definition of a "National Cultural Park" in section 3(a) of H.R. 2484 approximates the "cultural landscape" category which section 208 of H.R. 6504 proposes to add to the existing National Register of Historic Places.

H.R. 2484 also embraces an administrative philosophy for "National Cultural Parks" which is similar to that proposed in H.R. 6504 by proposing Federal financial and technical assistance to States which implement "appropriate cultural park management programs".

We also have other reservations about H.R. 2484. They are as follows:

1. The Cultural Park Advisory Commission proposed in sections 4, 5, and 6 of the bill would, to a large extent, duplicate the functions of the existing Advisory Board on National Parks, Historic Sites, Buildings and Monuments, established by section 3 of the Historic Sites Act of 1935, as amended (16 U.S.C. 463).

2. The bill contains no provision to insure that the Federal investment in the resources will be protected after the grants are made.

3. The bill contains in section 9 an open-ended authorization of appropriations which would not provide any budgetary control.

4. The study required by the bill would be duplicative of part B of Volume I of the National Urban Recreation Study already done by this Department.

We believe the overall objectives of H.R. 2484 can best be accomplished by strengthening existing programs through the Administration's proposed National Heritage Policy Act, and therefore recommend the enactment of H.R. 6504 in lieu of this bill.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

ROBERT HERBST,
Assistant Secretary.

U.S. DEPARTMENT OF THE INTERIOR,
HERITAGE CONSERVATION AND RECREATION SERVICE,
Washington, D.C., September 29, 1980.

HON. JOHN F. SEIBERLING,
House of Representatives,
Washington, D.C.

DEAR MR. SEIBERLING: Thank you for the opportunity to comment on the committee print of H.R. 5496, particularly Section 101(a) requiring owner concurrence for listing properties on the National Register of Historic Places. While we do not support the concept of owner concurrence for the evaluation and recognition of historic resources and believe it is important to emphasize that listing on the National Register does not in any way restrict what a private property owner can do with his property, we will direct our comments to the technical aspects of the proposed language. In this context, we see some problems with the way Section 101(a) is presently drafted in that it would require the written consent of owners.

One of the present requirements of the National Register program is that owners, as well as local units of government and others, be notified that a property is being considered for nomination to the National Register and be given an opportunity to comment. Under the current regulations, comments are to be focused on the historic or architectural significance of the property—the basis of the National Register listing decision. Naturally, some additional form of owner inquiry would be possible in conjunction with this notification and request for comments. However, we are anxious to minimize the administrative burdens, particularly on the State, of such a request for owner approval. For this reason, we would recommend that whatever language is adopted allow adequate administrative flexibility to address such situations as multiple ownership of properties, absentee owners and district nominations. Our experience indicates that a substantial majority of owners support having their properties listed on the National Register of Historic Places.

We are pleased to note that the committee print does not affect determinations of eligibility for the review of Federal undertakings by the Advisory Council on Historic Preservation. Historic preservation is an important national interest and this advisory process, which in-

asures our historic resources consideration in the Federal decisionmaking process, is an essential element in responsible public decisions.

We are also pleased to note that grants and insured loans would only be available to properties actually listed on the National Register. We welcome these affirmative incentives to preservation and to National Register listing.

In general, we view those properties that comprise our Nation's historic heritage as part of the wealth of this country and as a non-renewable resource. We believe, therefore, that the identification, recognition and protection of these historic resources should be based principally on an evaluation of their historic significance. We view the National Register of Historic Places as more than an honor roll; it is a planning tool that identifies those properties which should be considered in planning decisions. We have never assumed, or in fact advocated, that all of the properties on the National Register either would or should be preserved. There are many competing interests and factors in both public and private resource use decisions and we support consideration of historic preservation as one of the factors in those decisions.

Again, thank you for the opportunity to comment.

Sincerely,

CHRIS THERRAL DELAPORTE,
Director.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

ACT OF OCTOBER 15, 1966

AN ACT To establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

¶The Congress finds and declares—

¶(a) that the spirit and direction of the Nation are founded upon and reflected in its historic past;

¶(b) that the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people;

¶(c) that, in the face of ever-increasing extensions of urban centers, highways, and residential, commercial, and industrial developments, the present governmental and nongovernmental historic preservation programs and activities are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation; and

¶(d) that, although the major burdens of historic preservation have been borne and major efforts initiated by private agencies

and individuals, and both should continue to play a vital role, it is nevertheless necessary and appropriate for the Federal Government to accelerate its historic preservation programs and activities, to give maximum encouragement to agencies and individuals undertaking preservation by private means, and to assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.】

SEC. 1. (a) This Act may be cited as the "National Historic Preservation Act".

(b) The Congress finds and declares that—

(1) the spirit and direction of the Nation are founded upon and reflected in its historic heritage;

(2) the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people;

(3) historic properties significant to the Nation's heritage are being lost or substantially altered, often inadvertently, with increasing frequency;

(4) the preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, economic, and energy benefits will be maintained and enriched for future generations of Americans;

(5) in the face of ever-increasing extensions of urban centers, highways, and residential, commercial, and industrial developments, the present governmental and nongovernmental historic preservation programs and activities are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation;

(6) the increased knowledge of our historic resources, the establishment of better means of identifying and administering them, and the encouragement of their preservation will improve the planning and execution of Federal and federally assisted projects and will assist economic growth and development; and

(7) although the major burdens of historic preservation have been borne and major efforts initiated by private agencies and individuals, and both should continue to play a vital role, it is nevertheless necessary and appropriate for the Federal Government to accelerate its historic preservation programs and activities, to give maximum encouragement to agencies and individuals undertaking preservation by private means, and to assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.

SEC. 2. It shall be the policy of the Federal Government, in co-operation with other nations and in partnership with the States, local governments, Indian tribes, and private organizations and individuals to—

(1) use measures, including financial and technical assistance, to foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony

and fulfill the social, economic, and other requirements of present and future generations;

(2) provide leadership in the preservation of the prehistoric and historic resources of the United States and of the international community of nations;

(3) administer federally owned, administered, or controlled prehistoric and historic resources in a spirit of stewardship for the inspiration and benefit of present and future generations;

(4) contribute to the preservation of nonfederally owned prehistoric and historic resources and give maximum encouragement to organizations and individuals undertaking preservation by private means;

(5) encourage the public and private preservation and utilization of all usable elements of the Nation's historic built environment; and

(6) assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.

TITLE I

SEC. 101. (a) The Secretary of the Interior is authorized—

[(1)] to expand and maintain a national register of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, and culture, hereinafter referred to as the National Register, and to grant funds to States for the purpose of preparing comprehensive statewide historic surveys and plans, in accordance with criteria established by the Secretary, for the preservation, acquisition, and development of such properties;

[(2)] to establish a program of matching grants-in-aid to States for projects having as their purpose the preservation for public benefit of properties that are significant in American history, architecture, archeology, and culture; and ¹

[(3)] to establish a program of matching grant-in-aid to the National Trust for Historic Preservation in the United States, chartered by act of Congress approved October 26, 1949 (63 Stat. 927), as amended, for the purpose of carrying out the responsibilities of the National Trust.²

[(4)] to withhold from disclosure to the public, information relating to the location of sites or objects listed on the National Register whenever he determines that the disclosure of specific information would create a risk of destruction or harm to such sites or objects.

(b) As used in this Act—

[(1)] The term “State” includes, in addition to the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

[(2)] The term “project” means programs of State and local governments and other public bodies and private organizations and individuals for the acquisition of title or interests in, and for the

development of, any district, site, building, structure, or object that is significant in American history, architecture, archeology, and culture, or property used in connection therewith, and for its development in order to assure the preservation for public benefit of any such historical properties.

【(3) The term "historic preservation" includes the protection, rehabilitation, restoration, and reconstruction of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, or culture.

【(4) The term "Secretary" means the Secretary of the Interior.】

SEC. 101. (a) (1) (A) The Secretary of the Interior is authorized to expand and maintain a National Register of Historic Places composed of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture.

(B) Properties meeting the criteria for National Historic Landmarks established pursuant to paragraph (2) shall be designated as "National Historic Landmarks" and included in the National Register, subject to the requirements of paragraph (6). All historic properties included on the National Register on the date of the enactment of the National Historic Preservation Act Amendments of 1980 shall be deemed to be included on the National Register as of their initial listing for purposes of this Act. All historic properties listed in the Federal Register of February 6, 1979, as "National Historic Landmarks" or thereafter prior to the effective date of this Act are declared by Congress to be National Historic Landmarks of national historic significance as of their initial listing as such in the Federal Register for purposes of this Act; except that in cases of National Historic Landmark districts for which no boundaries have been established, boundaries must first be published in the Federal Register and submitted to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives.

(2) The Secretary shall establish or revise criteria for properties to be included on the National Register and criteria for National Historic Landmarks, and shall also promulgate or revise regulations as may be necessary for—

(A) nominating properties for inclusion in, and removal from, the National Register and the recommendation of properties by certified local governments;

(B) obtaining the consent of property owners prior to including their property on the National Register, designating their property as a National Historic Landmark, or nominating their property for inclusion in the World Heritage List;

(C) designating properties as National Historic Landmarks and removing such designation;

(D) considering appeals from such recommendations, nominations, removals, and designations (or any failure or refusal by a nominating authority to nominate or designate);

(E) nominating historic properties for inclusion in the World Heritage List in accordance with the terms of the Convention concerning the Protection of the World Cultural and Natural Heritage;

(F) making determinations of eligibility of properties for inclusion on the National Register; and

(G) notifying the owner of a property, any appropriate local governments, and the general public, when the property is being considered for inclusion on the National Register, for designation as a National Historic Landmark or for nomination to the World Heritage List.

(3) Subject to the requirements of paragraph (6), any State which is carrying out a program approved under subsection (b), shall nominate to the Secretary properties which meet the criteria promulgated under subsection (a) for inclusion on the National Register. Any property nominated under this paragraph or under section 110(a) (2) shall be included on the National Register on the date 45 days after receipt by the Secretary of the nomination and the necessary documentation, unless the Secretary disapproves such nomination within such 45-day period or unless an appeal is filed under paragraph (5).

(4) Subject to the requirements of paragraph (6) the Secretary may accept a nomination directly from any person or local government for inclusion of a property on the National Register only if such property is located in a State where there is no program approved under subsection (b). The Secretary may include on the National Register any property for which such a nomination is made if he determines that such property is eligible in accordance with the regulations promulgated under paragraph (2). Such determination shall be made within 90 days from the date of the nomination unless the nomination is appealed under paragraph (5).

(5) Any person or local government may appeal a nomination of any historic property for inclusion on the National Register and may appeal the failure or refusal of a nominating authority to nominate a property in accordance with this subsection.

(6) The Secretary may not include any non-Federal property on the National Register of Historic Places unless the nomination for such inclusion is accompanied by a statement in writing that the owner of such property concurs to such inclusion; and the Secretary may not designate any non-Federal property as a National Historic Landmark unless the owner of such property concurs in writing to such designation. The Secretary may not include any historic district on the National Register of Historic Places unless the nomination for such inclusion is accompanied by a statement in writing that a majority of the owners of affected non-Federal property have concurred to such inclusion; and the Secretary may not designate any historic district as a National Historic Landmark unless he certifies that a majority of the owners of affected non-Federal property have concurred to such designation.

(7) The Secretary shall promulgate, or revise, regulations—

(A) ensuring that significant prehistoric and historic artifacts, and associated records, subject to section 110 of this Act, the Act of June 27, 1960 (16 U.S.C. 469c), and the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa and following) are deposited in an institution with adequate long-term curatorial capabilities;

(B) establishing a uniform process and standards for documenting historic properties by public agencies and private parties

for purposes of incorporation into, or complementing, the national historical architectural and engineering records within the Library of Congress; and

(C) certifying local governments, in accordance with subsection (c) (1) and for the allocation of funds pursuant to section 103(c) of this Act.

(b) (1) The Secretary in consultation with the National Conference of State Historic Preservation Officers and the National Trust for Historic Preservation, shall promulgate or revise regulations for State Historic Preservation Programs. Such regulations shall provide that a State program submitted to the Secretary under this section shall be approved by the Secretary if he determines that the program—

(A) provides for the designation and appointment by the Governor of a "State Historic Preservation Officer" to administer such program in accordance with paragraph (3) and for the employment or appointment by such officer of such professionally qualified staff as may be necessary for such purposes;

(B) provides for an adequate and qualified State historic preservation review board designated by the State Historic Preservation Officer unless otherwise provided by State law; and

(C) provides for adequate public participation in the State Historic Preservation Program, including the process of recommending properties for nomination to the National Register.

(2) Periodically, but not less than every four years after the approval of any State program under this subsection, the Secretary shall evaluate such program to make a determination as to whether or not it is in compliance with the requirements of this Act. If at any time, the Secretary determines that a State program does not comply with such requirements, he shall disapprove such program, and suspend in whole or in part assistance to such State under subsection (d) (1), unless there are adequate assurances that the program will comply with such requirements within a reasonable period of time. The Secretary may also conduct periodic fiscal audits of State programs approved under this section.

(3) It shall be the responsibility of the State Historic Preservation Officer to administer the State Historic Preservation Program and to—

(A) in cooperation with Federal and State agencies, local governments, and private organizations and individuals, direct and conduct a comprehensive statewide survey of historic properties and maintain inventories of such properties;

(B) identify and nominate eligible properties to the National Register and otherwise administer applications for listing historic properties on the National Register;

(C) prepare and implement a comprehensive statewide historic preservation plan;

(D) administer the State program of Federal assistance for historic preservation within the State;

(E) advise and assist, as appropriate, Federal and State agencies and local governments in carrying out their historic preservation responsibilities;

(F) cooperate with the Secretary, the Advisory Council on Historic Preservation, and other Federal and State agencies, local governments, and organizations and individuals to ensure that

historic properties are taken into consideration at all levels of planning and development;

(G) provide public information, education, and training and technical assistance relating to the Federal and State Historic Preservation Programs; and

(H) cooperate with local governments in the development of local historic preservation programs and assist local governments in becoming certified pursuant to subsection (c).

(4) Any State may carry out all or any part of its responsibilities under this subsection by contract or cooperative agreement with any qualified nonprofit organization or educational institution.

(5) Any State historic preservation program in effect under prior authority of law may be treated as an approved program for purposes of this subsection until the earlier of—

(A) the date on which the Secretary approves a program submitted by the State under this subsection or

(B) three years after the date of the enactment of the National Historic Preservation Act Amendments of 1980.

(c) (1) Any State program approved under this section shall provide a mechanism for the certification by the State Historic Preservation Officer of local governments to carry out the purposes of this Act and provide for the transfer, in accordance with section 103(c), of a portion of the grants received by the States under this Act, to such local governments. Any local government shall be certified to participate under the provisions of this section if the applicable State Historic Preservation Officer, and the Secretary, certifies that the local government—

(A) enforces appropriate State or local legislation for the designation and protection of historic properties;

(B) has established an adequate and qualified historic preservation review commission by State or local legislation;

(C) maintains a system for the survey and inventory of historic properties that furthers the purposes of subsection (b);

(D) provides for adequate public participation in the local historic preservation program, including the process of recommending properties for nomination to the National Register; and

(E) satisfactorily performs the responsibilities delegated to it under this Act.

Where there is no approved State program, a local government may be certified by the Secretary if he determines that such local government meets the requirements of subparagraphs (A) through (E); and in any such case the Secretary may make grants-in-aid to the local government for purposes of this section.

(2) (A) Before a property within the jurisdiction of the certified local government may be considered by the State to be nominated to the Secretary for inclusion on the National Register, the State Historic Preservation Officer shall notify the owner, the applicable chief local elected official, and the local historic preservation commission. The commission, after reasonable opportunity for public comment, shall prepare a report as to whether or not such property, in its opinion, meets the criteria of the National Register. Within 60 days of notice from the State Historic Preservation Officer, the chief local elected official shall transmit the report of the commission and his recommen-

dation to the State Historic Preservation Officer. Except as provided in subparagraph (B), after receipt of such report and recommendation, or if no such report and recommendation are received within 60 days, the State shall make the nomination pursuant to section 101(a). The State may expedite such process with the concurrence of the certified local government.

(B) If both the commission and the chief local elected official recommend that a property not be nominated to the National Register, the State Historic Preservation Officer shall take no further action, unless within 30 days of the receipt of such recommendation by the State Historic Preservation Officer an appeal is filed with the State. If such an appeal is filed, the State shall follow the procedures for making a nomination pursuant to section 101(a). Any report and recommendations made under this section shall be included with any nomination submitted by the State to the Secretary.

(3) Any local government certified under this section or which is making efforts to become so certified shall be eligible for funds under the provisions of section 103(c) of this Act, and shall carry out any responsibilities delegated to it in accordance with such terms and conditions as the Secretary deems necessary or advisable.

(d)(1) The Secretary shall administer a program of matching grant-in-aid to the States for historic preservation projects, and State historic preservation programs, approved by the Secretary and having as their purpose the identification of historic properties and the preservation of properties included on the National Register.

(2) The Secretary shall administer a program of matching grant-in-aid to the National Trust for Historic Preservation in the United States, chartered by Act of Congress approved October 26, 1949 (63 Stat. 927) for the purposes of carrying out the responsibilities of the National Trust.

(3) (A) In addition to the programs under paragraphs (1) and (2), the Secretary shall administer a program of direct grants for the preservation of properties included the National Register. Funds to support such programs annually shall not exceed 10 percent of the amount appropriated annually for the fund established under section 108. These grants may be made by the Secretary, in consultation with the appropriate State Historic Preservation Officer—

(i) for the preservation of National Historic Landmarks which are threatened with demolition or impairment and for the preservation of historic properties of World Heritage significance,

(ii) for demonstration projects which will provide information concerning professional methods and techniques having application to historic properties,

(iii) for the training and development of skilled labor in trades and crafts, and in analysis and curation, relating to historic preservation; and

(iv) to assist persons or small businesses within any historic district included in the National Register to remain within the district,

(B) The Secretary may also, in consultation with the appropriate State Historic Preservation Officer, make grants or loans or both under this section to Indian tribes and to nonprofit organizations rep-

representing ethnic or minority groups for the preservation of their cultural heritage.

(C) Grants may be made under subparagraph (A)(i) and (iv) only to the extent that the project cannot be carried out in as effective a manner through the use of an insured loan under section 104.

(e) No part of any grant made under this section may be used to compensate any person intervening in any proceeding under this Act.

(f) In consultation with the Advisory Council on Historic Preservation, the Secretary shall promulgate guidelines for Federal agency responsibilities under section 110 of this title.

(g) Within one year after the date of enactment of the National Historic Preservation Act Amendments of 1980, the Secretary shall establish, in consultation with the Secretaries of Agriculture and Defense, the Smithsonian Institution, and the Administrator of the General Services Administration, professional standards for the preservation of historic properties in Federal ownership or control.

(h) The Secretary shall develop and make available to Federal agencies, State and local governments, private organizations and individuals, and other nations and international organizations pursuant to the World Heritage Convention, training in, and information concerning, professional methods and techniques for the preservation of historic properties and for the administration of the historic preservation program at the Federal, State, and local level. The Secretary shall also develop mechanisms to provide information concerning historic preservation to the general public including students.

SEC. 102. (a) No grant may be made under this Act—

(1) unless application therefor is submitted to the Secretary in accordance with regulations and procedures prescribed by him;

(2) unless the application is in accordance with the comprehensive statewide historic preservation plan which has been approved by the Secretary after considering its relationship to the comprehensive statewide outdoor recreation plan prepared pursuant to the Land and Water Conservation Fund Act of 1965 (78 Stat. 897);

[(3) for more than 50 per centum of the total cost involved, as determined by the Secretary and his determination shall be final;]

(3) for more than 50 per centum of the aggregate cost of carrying out projects and programs specified in section 101(d)(1) and (2) in any one fiscal year, except that for the costs of State or local historic surveys or inventories the Secretary shall provide 70 per centum of the aggregate cost involved in any one fiscal year.

Except as permitted by other law, the State share of the costs referred to in paragraph (3) shall be contributed by non-Federal sources. Notwithstanding any other provision of law, no grant made pursuant to this Act shall be treated as taxable income for purposes of the Internal Revenue Code of 1954.

* * * * *

[(c) The Secretary may in his discretion waive the requirements of paragraph (3) of subsection (a) of this section for the purposes of making grants for the preparation of statewide historic preservation plans and surveys and project plans. Any grant made pursu-

ant to this subsection may not exceed 70 per centum of the cost of a project, and the total of such grants made pursuant to this subsection in any one fiscal year may not exceed one-half of the funds appropriated for that fiscal year pursuant to section 108 of this Act.】

* * * * *

SEC. 103. (a) The amounts appropriated and made available for grants to the States for comprehensive statewide historic surveys and plans under this Act shall be apportioned among the States by the Secretary on the basis of needs as determined by him.

(b) The amounts appropriated and made available for grants to the States for projects *and programs* under this Act for each fiscal year shall be apportioned among the States by the Secretary in accordance with needs as disclosed in approved statewide historic preservation plans.

【The Secretary shall notify each State of its apportionment, and the amounts thereof shall be available thereafter for payment to such State for projects in accordance with the provisions of this Act.】

The Secretary shall notify each State of its apportionment under this subsection within thirty days following the date of enactment of legislation appropriating funds under this Act. Any amount of any apportionment that has not been paid or obligated by the Secretary during the fiscal year in which such notification is given and for two fiscal years thereafter, shall be reapportioned by the Secretary in accordance with this subsection.

(c) *A minimum of ten per centum of the annual apportionment distributed by the Secretary to each State for the purposes of carrying out this Act shall be transferred by the State, pursuant to the requirements of this Act, to local governments which are certified under section 101(c) for historic preservation projects or programs of such local governments. In any year in which the total annual apportionment to the States exceeds \$65,000,000, one half of the excess shall also be transferred by the States to local governments certified pursuant to section 101(c).*

(d) *The Secretary shall establish guidelines for the use and distribution of funds under subsection (c) to insure that no local government receives a disproportionate share of the funds available, and may include a maximum or minimum limitation on the amount of funds distributed to any single local government. The guidelines shall not limit the ability of any State to distribute more than ten per centum of its annual apportionment under subsection (c), nor shall the Secretary require any State to exceed the ten per centum minimum distribution to local governments.*

【SEC. 104. (a) No grant may be made by the Secretary for or on account of any survey or project under this Act with respect to which financial assistance has been given or promised under any other Federal program or activity, and no financial assistance may be given under any other Federal program or activity for or on account of any survey or project with respect to which assistance has been given or promised under this Act.

【(b) In order to assure consistency in policies and actions under this Act with other related Federal programs and activities, and to assure coordination of the planning acquisition, and development assistance to States under this Act with other related Federal programs

and activities, the President may issue such regulations with respect thereto as he deems desirable, and such assistance may be provided only in accordance with such regulations.】

Sec. 104. (a) The Secretary shall establish and maintain a program by which he may, upon application of a private lender, insure loans (including loans made in accordance with a mortgage) made by such lender to finance any project for the preservation of a property included on the National Register.

(b) A loan may be insured under this section only if—

(1) the loan is made by a private lender approved by the Secretary as financially sound and able to service the loan properly;

(2) the amount of the loan, and interest rate charged with respect to the loan, do not exceed such amount, and such a rate, as is established by the Secretary, by rule;

(3) the Secretary has consulted the appropriate State Historic Preservation Officer concerning the preservation of the historic property;

(4) the Secretary has determined that the loan is adequately secured and there is reasonable assurance of repayment;

(5) the repayment period of the loan does not exceed the lesser of 40 years or the expected life of the asset financed;

(6) the amount insured with respect to such loan does not exceed 90 percent of the loss sustained by the lender with respect to the loan; and

(7) the loan, the borrower, and the historic property to be preserved meet other terms and conditions as may be prescribed by the Secretary, by rule, especially terms and conditions relating to the nature and quality of the preservation work.

The Secretary shall consult with the Secretary of the Treasury regarding the interest rate of loans insured under this section.

(c) The aggregate unpaid principal balance of loans insured under this section and outstanding at any one time may not exceed the amount which has been covered into the Historic Preservation Fund pursuant to section 108 and subsections (g) and (i) of this section, as in effect on the date of the enactment of this Act but which has not been appropriated for any purpose.

(d) Any contract of insurance executed by the Secretary under this section may be assignable, shall be an obligation supported by the full faith and credit of the United States, and shall be incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder.

(e) The Secretary shall specify, by rule and in each contract entered into under this section, the conditions and method of payment to a private lender as a result of losses incurred by the lender on any loan insured under this section.

(f) In entering into any contract to insure a loan under this section, the Secretary shall take steps to assure adequate protection of the financial interests of the Federal Government. The Secretary may—

(1) in connection with any foreclosure proceeding, obtain, on behalf of the Federal Government, the property securing a loan insured under this title; and

(2) operate or lease such property for such period as may be necessary to protect the interest of the Federal Government and to carry out subsection (g).

(g) (1) *In any case in which a historic property is obtained pursuant to subsection (f), the Secretary shall attempt to convey such property to any governmental or nongovernmental entity under such conditions as will ensure the property's continued preservation and use; except that if, after a reasonable time, the Secretary, in consultation with the Advisory Council on Historic Preservation, determines that there is no feasible and prudent means to convey such property and to ensure its continued preservation and use, then the Secretary may convey the property at the fair market value of its interest in such property to any entity without restriction.*

(2) *Any funds obtained by the Secretary in connection with the conveyance of any property pursuant to paragraph (1) shall be covered into the Historic Preservation Fund, in addition to the amounts covered into such fund pursuant to section 108 and subsection (i) of this section, and shall remain available in such Fund until appropriated by the Congress to carry out the purposes of this Act.*

(h) *The Secretary may assess appropriate and reasonable fees in connection with insuring loans under this section. Any such fees shall be covered into the Historic Preservation Fund, in addition to the amounts covered into such Fund pursuant to section 108 and subsection (g) of this section, and shall remain available in such Fund until appropriated by the Congress to carry out purposes of this Act.*

(i) *Notwithstanding any other provision of law, any loan insured under this section shall be treated as non-Federal funds for the purposes of satisfying any requirement of any other provision of law under which Federal funds to be used for any project or activity are conditioned upon the use of non-Federal funds by the recipient for payment of any portion of the costs of such project or activity.*

(j) *Effective after the fiscal year 1981 there are authorized to be appropriated, such sums as may be necessary to cover payments incurred pursuant to subsection (e).*

(k) *No debt obligation which is made or committed to be made, or which is insured or committed to be insured, by the Secretary under this section shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank.*

* * * * *

SEC. 108. To carry out the provisions of this Act, there is hereby established the Historic Preservation Fund (hereafter referred to as the "fund") in the Treasury of the United States.

There shall be covered into such fund \$24,400,000 for fiscal year 1977, \$100,000,000 for fiscal year 1978, \$100,000,000 for fiscal year 1979, \$150,000,000 for fiscal year 1980, and \$150,000,000 for fiscal year 1981 and \$150,000,000 for each of fiscal years 1982 through 1987, from revenues due and payable to the United States under the Outer Continental Shelf Lands Act (67 Stat. 462, 469), as amended (43 U.S.C. 338), and/or under the Act of June 4, 1920 (41 Stat. 813), as amended (30 U.S.C. 191), notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury. Such moneys shall be used only to carry out the purposes of this Act and shall be available for expenditure only when appropriated by the Congress. Any moneys not appropriated shall remain available in the fund until appropriated for said purposes: *Provided*, That appropria-

tions made pursuant to this paragraph may be made without fiscal year limitation.

* * * * *

SEC. 110. (a) (1) The heads of all Federal agencies shall assume responsibility for the preservation of historic properties which are owned or controlled by such agency. Prior to acquiring, constructing, or leasing buildings for purposes of carrying out agency responsibilities, each Federal agency shall use, to the maximum extent feasible, historic properties available to the agency. Each agency shall undertake, consistent with the preservation of such properties and the mission of the agency and the professional standards established pursuant to section 101(f), any preservation, as may be necessary to carry out this section.

(2) With the advice of the Secretary and in cooperation with the State Historic Preservation Officer for the State involved, each Federal agency shall establish a program to locate, inventory, and nominate to the Secretary all properties under the agency's ownership or control by the agency, that appear to qualify for inclusion on the National Register in accordance with the regulations promulgated under section 101(a)(2)(A). Each Federal agency shall exercise caution to assure that any such property that might qualify for inclusion is not inadvertently transferred, sold, demolished, substantially altered, or allowed to deteriorate significantly.

(b) Each Federal agency shall initiate measures to assure that where, as a result of Federal action or assistance carried out by such agency, an historic property is to be substantially altered or demolished, timely steps are taken to make or have made appropriate records, and that such records then be deposited, in accordance with section 101(a), in the Library of Congress or with such other appropriate agency as may be designated by the Secretary, for future use and reference.

(c) The head of each Federal agency shall under section 214, designate a qualified official to be known as the agency's "Preservation Officer" who shall be responsible for coordinating that agency's activities under this Act. Each Preservation Officer and official designated at the field or regional level may, in order to be considered qualified, satisfactorily complete an appropriate training program established by the Secretary under section 101(g).

(d) Consistent with the agency's missions and mandates, all Federal agencies shall carry out agency programs and projects (including those under which any Federal assistance is provided or any Federal license, permit, or other approval is required) in accordance with the purposes of this Act and, give consideration to programs and projects which will further the purposes of this Act.

(e) The Secretary shall review and approve the plans of transferees of surplus federally owned historic properties to ensure that the pre-historical, historical, architectural, or culturally significant values will be preserved or enhanced.

(f) Prior to the approval of any Federal undertaking which may directly and adversely affect any National Historic Landmark, the head of the responsible Federal agency shall, to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to such landmark, and shall afford the Advisory Coun-

cil on Historic Preservation a reasonable opportunity to comment on the undertaking.

(g) Each Federal agency shall include the costs of preservation activities of such agency under this Act as eligible project costs in all undertakings of such agency or assisted by such agency. The eligible project costs shall also include amounts paid by a Federal agency to any State to be used in carrying out such preservation responsibilities of the Federal agency under this Act, and reasonable costs may be charged to Federal licensees and permittees as a condition to the issuance of such license or permit.

(h) The Secretary shall establish an annual preservation awards program under which he may make monetary awards in amounts of not to exceed \$1,000 and provide citations for special achievement to officers and employees of Federal, State, and certified local governments in recognition of their outstanding contributions to the preservation of historic resources. Such program may include the issuance of annual awards by the President of the United States to any citizen of the United States recommended for such award by the Secretary.

(i) Nothing in this Act shall be construed to require the preparation of an environmental impact statement where such a statement would not otherwise be required under the National Environmental Policy Act of 1969, and nothing in this Act shall be construed to provide any exemption from any requirement respecting the preparation of such a statement under such Act.

(j) The Secretary shall promulgate regulations under which the requirements of this section may be waived in whole or in part in the event of a major natural disaster or an imminent threat to the national security.

SEC. 111. (a) Notwithstanding any other provision of law, any Federal agency may, after consultation with the Advisory Council on Historic Preservation, lease an historic property owned by the agency to any person or organization, or exchange any property owned by the agency with comparable historic property, if the agency head determines that the lease or exchange will adequately insure the preservation of the historic property.

(b) The proceeds of any lease under subsection (a) may, notwithstanding any other provision of law, be retained by the agency entering into such lease and used to defray the costs of administration, maintenance, repair, and related expenses incurred by the agency with respect to such property or other properties which are on the National Register which are owned by, or are under the jurisdiction or control of, such agency. Any surplus proceeds from such leases shall be deposited into the Treasury of the United States at the end of the second fiscal year following the fiscal year in which such proceeds were received.

(c) The head of any Federal agency having responsibility for the management of any historic property may, after consultation with the Advisory Council on Historic Preservation, enter into contracts for the management of such property. Any such contract shall contain such terms and conditions as the head of such agency deems necessary or appropriate to protect the interests of the United States and insure adequate preservation of the historic property.

TITLE II

SEC. 201. (a) There is established as an independent agency of the United States Government an Advisory Council on Historic Preservation (hereinafter referred to as the "Council") which shall be composed of twenty-nine members as follows:

- [(1) The Secretary of the Interior;
- [(2) The Secretary of Housing and Urban Development;
- [(3) The Secretary of Commerce;
- [(4) The Administrator of the General Services Administration;
- [(5) The Secretary of the Treasury;
- [(6) The Attorney General;
- [(7) The Secretary of Agriculture;
- [(8) The Secretary of Transportation;
- [(9) The Secretary of State;
- [(10) The Secretary of Defense;
- [(11) The Secretary of Health, Education, and Welfare;
- [(12) The Chairman of the Council on Environmental Quality;
- [(13) The Chairman of the Federal Council on the Arts and Humanities;
- [(14) The Architect of the Capitol;
- [(15) The Secretary of the Smithsonian Institution;
- [(16) The Chairman of the National Trust for Historic Preservation;

[(17) The President of the National Conference of State Historic Preservation Officers; and

[(18) Twelve appointed by the President from outside the Federal Government. In making these appointments, the President shall give due consideration to the selection of officers of State and local governments and individuals who are significantly interested and experienced in the matters to be considered by the Council.] *the following members:*

(1) *a Chairman appointed by the President selected from the general public;*

(2) *the Secretary of the Interior;*

(3) *the Architect of the Capitol;*

(4) *the Secretary of Agriculture and the heads of three other agencies of the United States (other than the Department of the Interior) the activities of which affect historic preservation, appointed by the President;*

(5) *one Governor appointed by the President;*

(6) *one Mayor appointed by the President;*

(7) *the President of the National Conference of State Historic Preservation Officers;*

(8) *the Chairman of the National Trust for Historic Preservation;*

(9) *four experts in the field of historic preservation appointed by the President from the disciplines of architecture, history, archeology, and other appropriate disciplines; and*

(10) *three at-large members from the general public, appointed by the President.*

(b) Each member of the Council specified in paragraphs [(1) through (17)] (2) through (8) (other than (5) and (6)) of subsection (a) may designate another officer of his department, agency, or organization to serve on the Council in his stead, *except that, in the case of paragraphs (2) and (4), no such officer other than an Assistant Secretary or an officer having major department-wide or agency-wide responsibilities may be so designated.*

[(c) Each member of the Council appointed under paragraph (18) of subsection (a) shall serve for a term of five years from the expiration of his predecessor's term; except that the members first appointed under that paragraph shall serve for terms of from one to five years, as designated by the President at the time of appointment, in such manner as to insure that the terms of not less than one nor more than two of them will expire in any one year.

[(d) A vacancy in the Council shall not affect its powers, but shall be filled in the same manner as the original appointment (and for the balance of the unexpired term).

[(e) The Chairman and the Vice Chairman of the Council shall be designated by the President. During the absence or disability of the Chairman or when the office is vacant, the Vice Chairman shall act in the place of the Chairman.]

(c) Each member of the Council appointed under paragraph (1), and under paragraphs (9) and (10) of subsection (a) shall serve for a term of four years from the expiration of his predecessor's term; except that the members first appointed under that paragraph shall serve for terms of one to four years, as designated by the President at the time of appointment, in such manner as to insure that the terms of not more than two of them will expire in any one year. The members appointed under paragraphs (5) and (6) shall serve for the term of their elected office but not in excess of four years. An appointed member may not serve more than two terms. An appointed member whose term has expired shall serve until that member's successor has been appointed.

(d) A vacancy in the Council shall not affect its powers, but shall be filled, not later than 60 days after such vacancy commences, in the same manner as the original appointment (and for the balance of any unexpired terms). The members of the Advisory Council on Historic Preservation appointed by the President under this Act as in effect on the day before the enactment of the National Historic Preservation Amendments of 1980 shall remain in office until all members of the Council, as specified in this section, have been appointed. The members first appointed under this section shall be appointed not later than 180 days after the enactment of the National Historic Preservation Amendments of 1980.

(e) The President shall designate a Vice Chairman, from the members appointed under paragraph (5), (6), (9), or (10). The Vice Chairman may act in place of the Chairman during the absence or disability of the Chairman or when the office is vacant.

(f) [Fifteen] *Nine members of the Council shall constitute a quorum.*

SEC. 202. (a) The Council shall—

(1) advise the President and the Congress on matters relating to historic preservation; recommend measures to coordinate activities

of Federal, State, and local agencies and private institutions and individuals relating to historic preservation; and advise on the dissemination of information pertaining to such activities;

(2) encourage, in cooperation with the National Trust for Historic Preservation and appropriate private agencies, public interest and participation in historic preservation;

(3) recommend the conduct of studies in such areas as the adequacy of legislative and administrative statutes and regulations pertaining to historic preservation activities of State and local governments and the effects of tax policies at all levels of government on historic preservation;

(4) advise as to guidelines for the assistance of State and local governments in drafting legislation relating to historic preservation; [and]

(5) encourage, in cooperation with appropriate public and private agencies and institutions, training and education in the field of historic preservation[.];

(6) *review the policies and programs of Federal agencies and recommend to such agencies methods to improve the effectiveness, coordination, and consistency of those policies and programs with the policies and programs carried out under this Act; and*

(7) *inform and educate Federal agencies, State and local governments, Indian tribes, other nations and international organizations and private groups and individuals as to the Council's authorized activities.*

(b) The Council shall submit annually a comprehensive report of its activities and the results of its studies to the President and the Congress and shall from time to time submit such additional and special reports as it deems advisable. Each report shall propose such legislative enactments and other actions as, in the judgment of the Council, are necessary and appropriate to carry out its recommendations *and shall provide the Council's assessment of current and emerging problems in the field of historic preservation and an evaluation of the effectiveness of the programs of Federal agencies, State and local governments, and the private sector in carrying out the purposes of this Act.*

* * * * *

SEC. 204. [The members of the Council specified in paragraphs (1) through (17) of section 201(a) shall serve without additional compensation. The members of the Council appointed under paragraph (18) of section 201(a)] *The members of the Council specified in paragraphs (2), (3), and (4) of section 201(a) shall serve without additional compensation. The other members of the Council shall receive \$100 per diem when engaged in the performance of the duties of the Council. All members of the Council shall receive reimbursement for necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Council.*

SEC. 205. (a) * * *

(b) The Council shall have a General Counsel, who shall be appointed by the Executive Director. The General Counsel shall report directly to the Executive Director and serve as the Council's legal advisor. The Executive Director shall appoint such other attorneys as may be necessary to assist the General Counsel, represent the Council

in courts of law whenever appropriate, *including enforcement of agreements with Federal agencies to which the Council is a party*, assist the Department of Justice in handling litigation concerning the Council in courts of law, and perform such other legal duties and functions as the Executive Director and the Council may direct.

* * * * *

(g) The members of the Council specified in paragraphs **[(1)] (2)** through **[(16)] (4)** of section 201(a) shall provide the Council, with or without reimbursement as may be agreed upon by the Chairman and the members, with such funds, personnel, facilities, and services under their jurisdiction and control as may be needed by the Council to carry out its duties, to the extent that such funds, personnel, facilities, and services are requested by the Council and are otherwise available for that purpose. To the extent of available appropriations, the Council may obtain, by purchase, rental, donation, or otherwise, such additional property, facilities, and services as may be needed to carry out its duties *and may also receive donations of moneys for such purpose, and the Executive Director is authorized, in his discretion, to accept, hold, use, expend, and administer the same for the purposes of this Act.*

* * * * *

SEC. 210. **【Whenever the Council transmits any legislative recommendations, or testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit copies thereof to the House Committee on Interior and Insular Affairs and the Senate Committee on Interior and Insular Affairs.】** No officer or agency of the United States shall have any authority to require the Council to submit its legislative recommendations, or testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress. In instances in which the Council voluntarily seeks to obtain the comments or review of any officer or agency of the United States, the Council shall include a description of such actions in its legislative recommendations, testimony, or comments on legislation which it transmits to the Congress.

SEC. 211. The Council is authorized to promulgate such rules and regulations as it deems necessary to govern the implementation of section 106 of this Act. *The Council shall, by regulation, establish such procedures as may be necessary to provide for participation by local governments in proceedings and other actions taken by the Council with respect to undertakings referred to in section 106 which affect such local governments.*

SEC. 212. (a) The Council shall submit its budget annually as a related agency of the Department of the Interior. To carry out the provisions of this title, there are authorized to be appropriated not more than \$1,500,000 in fiscal year 1977, \$1,750,000 in fiscal year 1978, and \$2,000,000 in fiscal year 1979. There are authorized to be appropriated not to exceed \$2,250,000 in fiscal year 1980.

(b) Whenever the Council submits any budget estimate or request to the President or the Office of Management and Budget, it shall con-

currently transmit copies of that estimate or request to the House and Senate Appropriations Committee and the House Committee on Interior and Insular Affairs and the Senate Committee on [Interior and Insular Affairs] *Energy and Natural Resources*.

SEC. 213. *To assist the Council in discharging its responsibilities under this Act, the Secretary at the request of the Chairman, shall provide a report to the Council detailing the significance of any historic property, describing the effects of any proposed undertaking on the affected property, and recommending measures to avoid, minimize, or mitigate adverse effects.*

SEC. 214. *The Council, with the concurrence of the Secretary, shall promulgate regulations or guidelines, as appropriate, under which Federal programs or undertakings may be exempted from any or all of the requirements of this Act when such exemption is determined to be consistent with the purposes of this Act, taking into consideration the magnitude of the exempted undertaking or program and the likelihood of impairment of historic properties.*

TITLE III

SEC. 301. *As used in this Act, the term—*

(1) *“Agency” means “agency” as such term is defined in section 551 of title 5, United States Code.*

(2) *“State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands.*

(3) *“Local government” means a city, county, parish, township, municipality, or borough, or any other general purpose political subdivision of any State.*

(4) *“Indian tribe” means the governing body of any Indian tribe, band, nation, or other group which is recognized as an Indian tribe by the Secretary of the Interior and for which the United States holds land in trust or restricted status for that entity or its members. Such term also includes any Native village corporation, regional corporation, and Native Group established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1701 et seq.).*

(5) *“Historic property” or “historic resource” means any pre-historic or historic district, site, building, structure, or object included in, or eligible for inclusion on the National Register; such term includes artifacts, records, and remains which are related to such a district, site, building, structure, or object.*

(6) *“National Register” or “Register” means the National Register of Historic Places established under section 101.*

(7) *“Undertaking” means any action as described in section 106.*

(8) *“Preservation” or “historic preservation” includes identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance and reconstruction, or any combination of the foregoing activities.*

(9) *“Cultural park” means a definable urban area which is distinguished by historic resources and land related to such resources*

and which constitutes an interpretive, educational, and recreational resource for the public at large.

(10) "Historic conservation district" means an urban area of one or more neighborhoods and which contains (A) historic properties, (B) buildings having similar or related architectural characteristics, (C) cultural cohesiveness, or (D) any combination of the foregoing.

(11) "Secretary" means the Secretary of the Interior except where otherwise specified.

(12) "State historic preservation review board" means a board, council, commission, or other similar collegial body established as provided in section 101(b)(1)(B)—

(A) the members of which are appointed by the State Historic Preservation Officer (unless otherwise provided for by State law),

(B) a majority of the members of which are professionals qualified in the following and related disciplines: history, prehistoric and historic archeology, architectural history, and architecture, and

(C) which has the authority to—

(i) review National Register nominations and appeals from nominations;

(ii) review appropriate documentation submitted in conjunction with the Historic Preservation Fund;

(iii) provide general advice and guidance to the State Historic Preservation Officer; and

(iv) perform such other duties as may be appropriate.

(13) "Historic preservation review commission" means a board, council, commission, or other similar collegial body which is established by State or local legislation as provided in section 101(c)(1)(B), and the members of which are appointed, unless otherwise provided by State or local legislation, by the chief elected official of the jurisdiction concerned from among—

(A) professionals in the disciplines of architecture, history, architectural history, planning, archeology, or related disciplines, to the extent such professionals are available in the community concerned, and

(B) such other persons as have demonstrated special interest, experience, or knowledge in history, architecture, or related disciplines and as will provide for an adequate and qualified commission.

SEC. 302. Each Federal agency is authorized to expend funds appropriated for its authorized programs for the purposes of this Act.

SEC. 303. (a) The Secretary is authorized to accept donations and bequests of money and personal property for the purposes of this Act and shall hold, use, and expend and administer the same for such purposes.

(b) The Secretary is authorized to accept gifts or donations of less than fee interests in any historic property where the acceptance of such interests will facilitate the conservation or preservation of such properties. Nothing in this section or in any provision of this Act shall be construed to affect or impair any other authority of the Secretary under other provision of law to accept or acquire any property for conservation or preservation or for any other purpose.

SEC. 304. The head of any Federal agency, after consultation with the Secretary, shall withhold from disclosure to the public, information relating to the location and character of historic resources whenever the head of the agency or the Secretary determines that the disclosure of such information may create a substantial risk of harm, theft, or destruction to such resources or to the area or place where such resources are located.

SEC. 305. In any civil action brought in any United States district court by any interested person to enforce the provisions of this Act, if such person substantially prevails in such action, the court may award attorneys' fees, expert witness fees, and other costs of participating in such action, as the court deems reasonable.

SEC. 306. (a) In order to provide a national center to commemorate and encourage the building arts and to preserve and maintain a nationally significant building which exemplifies the great achievements of the building arts in the United States, the Secretary and the Administrator of the General Services Administration are authorized and directed to enter into a cooperative agreement with the Committee for a National Museum of the Building Arts, Inc., a nonprofit corporation organized and existing under the laws of the District of Columbia, or its successor, for the operation of a National Museum for the Building Arts in the Federal Building located in the block bounded by Fourth Street, Fifth Street, F Street, and G Street, Northwest in Washington, D.C. Such museum shall—

(1) collect and disseminate information concerning the building arts, including the establishment of a national reference center for current and historic documents, publications, and research relating to the building arts;

(2) foster educational programs relating to the history, practice and contribution to society of the building arts, including promotion of imaginative educational approaches to enhance understanding and appreciation of all facets of the building arts;

(3) publicly display temporary and permanent exhibits illustrating, interpreting and demonstrating the building arts;

(4) sponsor or conduct research and study into the history of the building arts and their role in shaping our civilization; and

(5) encourage contributions to the building arts.

(b) The cooperative agreement referred to in subsection (a) shall include provisions which—

(1) make the site available to the Committee referred to in subsection (a) without charge;

(2) provide, subject to available appropriations, such maintenance, security, information, janitorial and other services as may be necessary to assure the preservation and operation of the site; and

(3) prescribe reasonable terms and conditions by which the Committee can fulfill its responsibilities under this Act.

(c) The Secretary is authorized and directed to provide matching grants-in-aid to the Committee referred to in subsection (a) for its programs related to historic preservation. The Committee shall match such grants-in-aid in a manner and with such funds and services as shall be satisfactory to the Secretary, except that no more than \$500,000 may be provided to the Committee in any one fiscal year.

(d) The renovation of the site shall be carried out by the Adminis-

trator with the advice of the Secretary. Such renovation shall, as far as practicable—

- (1) be commenced immediately,
- (2) preserve, enhance, and restore the distinctive and historically authentic architectural character of the site consistent with the needs of a national museum of the building arts and other compatible use, and
- (3) retain the availability of the central court of the building, or portions thereof, for appropriate public activities.

(e) The Committee shall submit an annual report to the Secretary and the Administrator concerning its activities under this section and shall provide the Secretary and the Administrator with such other information as the Secretary may, from time to time, deem necessary or advisable.

(f) For purposes of this section, the term "building arts" includes, but shall not be limited to, all practical and scholarly aspects of pre-historic, historic, and contemporary architecture, archaeology, construction, building technology and skills, landscape architecture, preservation and conservation, building and construction, engineering, urban and community design and renewal, city and regional planning, and related professions, skills, trades, and crafts.

Sec. 307. (a) At least thirty days prior to publishing in the Federal Register any proposed regulation required by this Act, the Secretary shall transmit a copy of the regulation to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The Secretary also shall transmit to such committees a copy of any final regulation prior to its publication in the Federal Register. Except as provided in subsection (b) of this section, no final regulation of the Secretary shall become effective prior to the expiration of thirty calendar days after it is published in the Federal Register during which either or both Houses of Congress are in session.

(b) In the case of an emergency, a final regulation of the Secretary may become effective without regard to the last sentence of subsection (a) if the Secretary notified in writing the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate setting forth the reasons why it is necessary to make the regulation effective prior to the expiration of the thirty-day period.

(c) Except as provided in subsection (b), the regulation shall not become effective if, within ninety calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: "That Congress disapproves the regulation promulgated by the Secretary dealing with the matter of _____, which regulation was transmitted to Congress on _____," the blank spaces therein being appropriately filled.

(d) If at the end of sixty calendar days of continuous session of Congress after the date of promulgation of a regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the regulation, and neither House has adopted such a resolution, the regulation may go into effect immediately. If, within such sixty

calendar days, such a committee has reported or been discharged from further consideration of such a resolution, the regulation may go into effect not sooner than ninety calendar days of continuous session of Congress after its promulgation unless disapproved as provided for.

(e) For the purposes of this section—

(1) continuity of session is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of sixty and ninety calendar days of continuous session of Congress.

(f) Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such regulation.

ADDITIONAL VIEWS

We are very supportive of the provisions of this bill and we highly endorse its adoption by the House. There is one particular provision of the bill, however, which leaves us with much concern.

The Committee approved an amendment to this bill which requires that properties may not be listed on the National Register of Historic Places unless owners of such properties consent to such listing. Owner consent has heretofore never been required. We feel that this change is a most unwise decision. It constitutes a serious threat to the current professional integrity of the National Register, and will result in a significant diminishment of the usefulness which the Register has served for so long, as a professional tool to identify and to assist in the preservation of historic properties nationwide.

A fundamental principle of the national historic preservation program has always been that decisions regarding the historic significance of a property, and consequently its eligibility for entry on the National Register, are to be made exclusively by the objective professional application of criteria relating solely to historic significance. Congress established this principle as early as the Antiquities Act of 1906, and it has consistently reaffirmed the principle in such later laws as the Historic Sites Act of 1935, the National Historic Preservation Act of 1966, and the Archeological and Historic Preservation Act of 1974.

The National Register has always been a professional document representing those properties considered worthy of listing based upon their professional historic merit. The listing of a property on the Register provides no legal protection whatever for that property. It principally elevates the importance of that property by virtue of its visibility from being so listed. The Register represents a professional yardstick of the historic importance of our nation's historic properties and objects.

We concur that the provision for owner consent should be incorporated into any situation where an owner's private property rights are in any way infringed upon or abridged. However, the listing of a property on the National Register does not take away or infringe upon the private property rights of the owner, and it is for that principal reason that we see no logic in requiring that owners must first consent before an item can be listed on the Register.

The insertion of owner consent into the criteria for listing constitutes a political element, whereby unquestionably legitimate historic properties can be precluded from the Register for any number of reasons.

For properties listed on the Register, the Congress has provided in law certain review processes for threatened properties, has provided the ability to obtain financial benefit through grants and tax treatment, and has also provided some tax disincentives for the destruction of historic properties.

These provisions do not infringe upon private property rights of owners; they merely constitute an expression of the Federal government's favorable concern for historic preservation.

Many state and local governments have based provisions of their laws dealing with historic preservation on the existence of the professionally assembled National Register. The change in the constitution of the National Register brought forth by the amendment to this bill represents a change in ground rules which will likely present severe adverse ramifications for numerous state and local laws.

The National Register under existing law has been working very well. We feel that the addition of an owner consent provision is totally non-meritorious, will be damaging to the professional integrity of the Register, and will overall needlessly reverse the cause of historic preservation across the nation.

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